Reserving the Right to Be Complex:

Gender Variance and Trans Identities

in the Greek Legal Order

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Abstract

Within the Greek legal order, gender identity recognition and the legal implications of trans identities have, in recent times, increasingly become the subjects of legislation and legal analysis. Nonetheless, in this newly emerging debate, context-specificity and historicity are often side-stepped. In this vein, the present thesis asks: *How did issues of gender variance emerge in the national legal order during the previous century and how were they discussed and regulated before the existence of LGBTI+ rights?* Starting from the premise that the legal management of gender identity adheres to different large-scale political projects on a macro level while, on a ground level, it is materialised through bureaucratic informality and individual survival strategies, the thesis proceeds to explore the following queries: *To which processes and projects does recent trans-related legislation relate and how can it be comprehended within them? How does such legislation translate into legal reality as a lived experience in Greece and how can it be appraised on a symbolic and material level?*

With these questions in mind, the thesis analyses texts that were compiled through archival research to create a genealogy of the legal management of gender identity during the previous century. It unearths categorical conflations, interpretative workings and other dominant epistemic gestures that created a chaotic nexus within the supposedly self-evident process of registering and categorising legible citizens. Multiple contemporary legal sources and a set of semi-structured interviews are then used to appraise the main pieces of legislation relating to gender identity issues at state and ground level. Exploring the way in which trans rights can be understood in a national context of traditional ethno-sexual values, the thesis makes an argument for complex *in concreto* readings of such legislation that go beyond its mere understanding as a linear and universal narrative of progress or assimilation.

List of abbreviations

AKOE Apeleftherotiko Kinima Omofylofilon Elladas (Liberation Movement of Greek Homosexuals)

AN.EL. Aneksartitoi Ellines (Independent Greeks)

CC Civil Code

CEE Central and East European

CommDH Commissioner for Human Rights

ECRI European Commission against Racism and Intolerance

ECtHR European Court of Human Rights

EEN Efimerida Ellinon Nomikon (Journal of Greek Jurists)

EU European Union

FRA Fundamental Rights Agency

GG Government Gazette

GHM Greek Helsinki Monitor

GNCHR Greek National Commission for Human Rights

GTSA Greek Transgender Support Association

HRW Human Rights Watch

ILGA International Gay and Lesbian Association

IMF International Monetary Fund

LA.O.S Laikos Orthodoxos Synagermos (Popular Orthodox Rally)

LGBT Lesbian, Gay, Bisexual and Transgender

LGBTI+ Lesbian, Gay, Bisexual, Transgender, Intersex and more

LGBTQI+ Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and more

MRG-G Minority Rights Group-Greece

ND Nea Dimokratia (New Democracy)

NGO Non-Governmental Organisation

OCG Orthodox Church of Greece

OLKE Omofylofiliki Lesviaki Koinotita Ellados (Homosexual Lesbian Community of Greece)

P.D. Presidential Decree

PASOK Panellinio Socialistiko Kinima (Panhellenic Socialist Movement)

PC Penal Code

R.D. Royal Decree

RVRN Racist Violence Recording Network

SOKADRE Synergazomenes Organoseis kai Koinotites gia ta Anthropina Dikaiomata ton Roma stin Ellada (Coordinated Organisations and Communities for Roma Human Rights in Greece)

SYRIZA Synaspismos Rizospastikis Aristeras (Coalition of the Radical Left)

TGEU Transgender Europe

TSQ Transgender Studies Quarterly

UN United Nations

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[1] The title borrows from Leslie Feinberg's alleged quote 'I reserve my right to be complex.'

warmer place for me and radically softened the experience of being away from Athens. Susan, Lisah and Denise, who took me under their wing in the most graceful, effortless and generous of ways. Last, Cecilia for reading my methodology chapter and for always thinking I am better than I am, despite proving her wrong every time.

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Last, since I have not yet found my own words to relate these texts, which I write for *you*, to *you*, I will use once more a lover's discourse:

> *When I write, I must acknowledge this fact (which, according to my Image-repertoire, lacerates me): there is no benevolence within writing, rather a terror: it smothers the other, who, far from perceiving the gift in it, reads there instead an assertion of mastery, of power, of pleasure, of solitude. Whence the cruel paradox of the dedication: I seek at all costs to give you what smothers you. (…) Hence I cannot give you what I thought I was writing for you that is*

what I must acknowledge: the amorous dedication is impossible (I shall not be satisfied with a worldly or mundane signature, pretending to dedicate to you a work which escapes us both). The operation in which the other is to be engaged is not a signature. It is, more profoundly, an inscription: the other is inscribed, he inscribes himself within the text, he leaves there his (multiple) traces. If you were only the dedicatee of this book, you would not escape your harsh condition as (loved) object – as god; but your presence within the text, whereby you are unrecognizable there, is not that of an analogical figure, of a fetish, but that of a force which is not, thereby, absolutely reliable.

-Roland Barthes 1978, A lover's Discourse: Fragments, pp. 78-79.

Dedicated to my Dad.

He would never have approved any of this.

Chapter 1. Introduction

1.1. Having Questions

Recent years have brought accelerated visibility to the issue of gender identity legal recognition in Greece, especially since the discussion around and vote regarding the related legislation in 2017 (Law 4491/2017). The present study, unfolded in the midst of this unprecedented intensification in the debate about trans identities and the law, and was led by a need to create an understanding of the legal management of gender variance beyond a generic tale of legal progress and to critically conceptualise its effects within the Greek context. The research was formulated under the main premise that the legal management of gender identity by the state adheres, on a macro level, to different state-level or larger transnational political projects while, at the ground level, it materialises through patterns of bureaucratic informality, improvised protocols and individual survival strategies.

Departing from this main argument, this thesis offers a context-specific reading of judicial practice, legislation and everyday legal practices regarding gender identity along those lines. Its contribution is twofold and can be summarised as such:

- Firstly, by constructing a critical genealogy of the legal management of gender variance since the previous century in the Greek legal order, the thesis takes forward and, to some extent, amends the currently emerging legal literature on the issue by providing it with much-needed historiographical depth.
- Secondly, by analysing the legal framework for trans issues in Greece, the thesis offers a critical appraisal of these laws and their conflicting effects in relation to the specific political work they have performed and in conjunction with the experience of trans legal reality in Greece.

In a nutshell, the main research aim is to interrogate the way in which the Greek state has regulated legal issues of gender variance (and more specifically trans legal issues) and to comprehend its complex implications beyond the existing (accepted)

narratives. That is, to produce a critical analysis of contemporary trans-related legislation that is historically sound, politically informed and empirically meaningful. This introductory section explains the way in which the main research questions of the thesis came about and hints at some of the conclusions that were reached in my research and analysis.

Exploring trans legal issues might have a rich theoretical legacy in European and N. American academic fields but, within Greek legal theory, it constitutes an utterly recent endeavour (Whittle 2002; Sharpe 2002; Currah *et al* 2006; Spade [2009] 2015). To be precise, when I started researching trans legal issues in 2013 as a Masters student at the University of the Aegean, I quickly found myself struggling with an almost complete lack of literature and engagement with the issue within contemporary Greek legal theory and other academic fields. Surprisingly, due to recent developments, by the time I concluded my dissertation and moved on to extend my research on a PhD level, it was hard to keep up with the over-production of trans-related material in the media and the terrain of legal theory (Chamtzoudis 2015; Theofilopoulos 2016; Kotzabasi 2017; Kounougeri-Manoledaki 2017a; 2017b; Leleki 2017; Pantelidou 2018; Papadopoulou 2017; 2018; Peraki 2017; Fountedaki 2017; Kaiafa-Gbadi *et al* (eds.) 2018; Tsirou 2019). Nonetheless, the current debates in Greece have adopted the international language of gender identity recognition and trans rights with a distinctive lack of reflection on the historicity and the various specificities of gender variance and its legal regulation in the national context. It is as if, before the very recently granted rights, there was simply a void or a series of irrelevant tales of anachronistic taxonomies that no one wants to remember or lay claim to.

The lack of relevant systematic studies in the Greek context and the broader tendency to adhere to a universalised progressivist narrative concerning LGBTI+ rights and recognition have left contemporary Greek legal engagement with trans issues floating without a historical anchor. As in other national contexts, the narrative of Greece as a European semi-periphery that has been "lagging" behind and that is now "catching up" with the rest of Europe often results in a simplified

and distorted version of its legal history (Mizielińska & Kulpa [2011] 2016). Such a narrative might have strategic value in lobbying arenas but it also flattens a complex socio-legal reality in order to fit a vision of linear progress (Kahlina 2015). Local presents become imaginary pasts of other (Euro-N. American) geo-political presents, while local legal historicity recedes from view. Nonetheless, historical and socio-political specificity proves to be a crucial aspect in the study of gender and sexual variance and the law. Without a critical legal historiography of gender and sexual non-normative articulations and its connection with the influence of international debates and transnational networks, it seemed impossible to account for the complex present entanglement of trans identities and the law in Greece. Therefore, the commitment to historical and geo-political specificity became a central axis of the thesis, allowing it to converse with the past not as a mere chronological precedence within a series of succeeding frameworks but as an essential layer of meaning in order to critically discuss an "extended present" simultaneously composed by a "haunting" past and a "suspended future" (Tsilimpounidi 2016; Papanikolaou 2018c; Vradis 2018).

In this vein, the first research questions that I chose to attend to were those that would provide a much-needed historical thread in the legal regulation of gender variance. That is: *How did issues of gender variance emerge in the national legal order during the previous century and, more importantly, how were they discussed and regulated before the existence of an LGBTI+ rights framework?* From this angle, one of the main aims of the thesis became to construct a historically informed genealogy of the legal management of gender variance in Greece beyond a linear presentation of legal frameworks that neatly succeed one another. The outcome consists of a fragmented and partial archive that is created through and along the epistemological complexities that underpin the management of gender variance by legal apparatuses during the previous century. Its main findings connect sex (re)classification processes with governance techniques of population standardisation and legibility, which are materialised through the categorical instrumentalisation of "hermaphroditism" and the persistent erasure of

transsexuality. By undertaking this historiographical task, the thesis complements the scarce Greek literature on the issue by recuperating a lot that has been lost in the quest to present a coherent lineage of legal concepts.

With a solid historical ground to stand on, it is then possible to turn to contemporary legislation on trans issues and, as the main premise of the research dictates, interrogate the actual, which is not necessarily the same as the declared, workings of this legislation within the context of its introduction. If the legal management of gender variance during the previous century was organised around the projects of citizen-legibility and the maintenance of the gender and sexual status quo through the erasure of transsexuality, then the question regarding contemporary legislation on gender identity becomes: *To which processes and projects does this legislation relate and how can it be comprehended within them?* Tracing the effects of all contemporary trans-related legislation, the thesis unearths the tacit connections between those laws and state-level projects that were unfolding in the era of their introduction, such as Europeanisation processes or attempts at the (re)legitimisation of governing actors. As a result, this legislation is linked with processes that can, to varying degrees, contradict its declared imperatives. The connections that are made constitute a crucial contribution to the critical appraisal of the existing legislation. By reworking the understanding of gender identity legislation, the present thesis creates a framework within which trans legal issues are discussed in close proximity with old and new hostile political apparatuses, such as traditional ethno-sexual values, crisis management and austerity politics, and racialised, as well as gendered, violence as a legitimate means of European governance.

Clearly then, context-specificity becomes an essential condition in order to interrogate the precise purposes served by the introduction of a trans-related legislative piece in the Greek legal order. Moreover, the focus on historical and socio-political specificity allows the interrogation of the tensions between contemporary LGBTI+ legislation introduced from the European into the national

legal order, which, in turn, is built upon specific ethno-sexual values.[2] Nonetheless, as feminist legal scholar Giwta Kravaritou notes, the gender imperative of the law is not necessarily expressed in the provisions *about* gender but "even more so in what the law 'thinks' on a deeper level" (Kravaritou 1996: 144, *my translation*). The weaving of gender and sexual norms in the core of law, implicitly genders the body of the law and is distilled within state apparatuses and carried through all aspects of institutional life up to the last tentacle of administrative authority.

Following this, the research question that emerges is *how might the introduction of trans -among other minorities - rights be understood in a national context of traditional ethno-sexual values? What kind of discourses are mobilised on a legal and a socio-political terrain against such introduced legislation, which contradicts the very fabric of the national legal order?* An analysis of the parliamentary debates shows that the opposition to recent trans-related legislation was organised around religio-nationalist collusions, heterosexual reproductive futurity and xenophobic (both anti-migrant and anti-European) sentiment. Accordingly, trans identities and their legitimisation in the law were depicted as a threat to familial values, national sovereignty and ethno-religious homogeneity.[3]

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[2] Throughout the core texts of Greek Civil and Penal Law, gender variance and sexuality as a whole (especially practices that are not included in reproductive heterosexuality), have been traditionally faced with an inherent "negativism" (Vitoros 2008). This has provided a historical legal basis for the deep interconnection between moral, natural and legal "deviation" within the Greek legal tradition (Vitoros 2008). Moreover, gender and sexual norms are reflected and reproduced from judicial discourses on every level even when, or especially when, gender and sexuality are not the subject in hand. For that matter, even the silences and "gaps" regarding these issues should not be conceptualised as mere absence of framework but as silences dense with meaning and normative power, "an evident presence of institutional homophobia" and transphobia (Kantsa & Chalkidou 2014: 97; Chalkidou 2018). In this sense, the gendered norms that underlie the Greek legal system are present even if not explicitly invoked.

[3] In this complicated discursive landscape, the issue of LGBTQI+ political organisation and activism and their relation to their Euro-N. American counterparts emerges as significant fiend of negotiation. Although political networks and activism evade the focus of the present thesis, it is worth noting that there exists a body of literature that recognises the role of Euro-N. American models of in the formulation of local movements in the European peripheries but also interrogates the political hierarchies reproduced by progressivist narratives (Kulpa & Mizielińska (eds.) [2011] 2016; Mesquita, Wiedlack & Lasthofer (eds.) 2012; Bilić & Kajinić (eds.) 2016; Bilić (ed.) 2016). Indeed, critical studies of LGBTQI+ political articulations in the "less" European regions reveal that neither the schema of local "backwardness" resolved by European "civilising" processes nor the view of Europeanisation as a solely neo-colonialist project are adequate to do justice to such complex

Last, the focus on context-specificity also served the discussion for the second part of the thesis' main premise, which suggests that the materialisation of the legal imperative at a ground level vastly differs from the letter of the law. Indeed, within fields such as critical legal studies, socio-legal studies, and feminist and queer legal studies, several writers have established that the relationship between trans people and the law is a complex and multifaceted. It is one that goes beyond the official canons of gender recognition or regulation (Namaste [2005] 2011; Ochoa 2008; Taşcioğlu 2011; West 2013; Spade [2009] 2015). In this vein, it is crucial to engage with questions that would take into account a context-specific empirical understanding of trans-related legislation, such as: *How does such legislation translate into legal reality as a lived experience in Greece? How do trans individuals appraise trans-related legislation? How do they engage with this legislation on a symbolic and material level?*

These questions work towards an analysis of the effects (or the lack thereof) of the law at a ground level and its negotiation within a specific socio-legal context by the individuals under its purview. A common thread throughout the thesis is the suggestion that, from the manipulation of the categorical conflations during the previous century to the present-day improvised protocols, the law should not be taken at face value. Not taking the legal text at face value means to avoid "mistaking public transcript for reality and obscuring the most complex, dialectical negotiation of dynamic discursive networks" (West 2013: 43). Indeed, the intimate knowledge of navigating recognition systems, public authorities and other services, as was discussed during a set of interviews I conducted, unearths such negotiations and also accounts for part of my interlocutors' scepticism towards declaratory provisions regarding the legal protection of trans identities. Overall, every chapter

articulations (Binnie 2004, 2016; Navickaite 2014; Kahlina 2015; Rexhepi 2016). Whether embraced politically or used strategically, the progressivist logic has been utilised (or even manipulated) by local activists in different and complex ways. Blending discursive and legal elements from different scales (the European, the national, the local etc.), such political mobilisations employ these tools in ways that lay down surprising pathways (Mizielińska [2011] 2016). To that end, context-specific analyses are crucial to critically appraise the workings of sexual and gender politics as they materialise in specific local settings.

on its own, and all of them combined, conclude that the management of gender variance in Greece does not adhere to state-imposed coherency and bureaucratic pristine protocols but is largely formulated by informal practices (whether low-level employees' discretion or individual survival strategies) and deeply rooted socio-political hierarchies.

Closing, it is worth noting that the lack of Greek literature on trans issues made harder the, already difficult task of delimiting the scope of the research. In every chapter of this thesis and in every section of each chapter, there were Sirens that presented me with various intriguing paths, each of which could have lead to valuable and significant discussions and research. Some of the paths I did not take are the philosophical discussions of gender ontologies, the emergence of social and political movements and their interconnection with issues discussed in the thesis, the debates concerning the pathologisation and medicalisation of gender variance, the debates about trans sex-work and its legal management, the legal claims of newly emerging identities[4], as well as many others. Most importantly, although there are issues of nationalism, racism and anti-migrant politics discussed in parts of the following analysis, my initial intention to include a section discussing issues of gender variant migrants in Greece was abandoned in the process.

Specifically, after some preliminary research including legal and media articles, press releases and after conducting interviews with two legal professionals that had held various positions in refugee-related NGOs and in the Greek Asylum Services, I decided not include such a section. From my understanding, the issues that I saw arising are vastly different from the ones concerning naturalised or long-term residing citizens, as well as the fact that they are immensely complex.[5] Although it

[4] For example, in 2017 the first case of a non-binary claim, as such, was discussed in court. The court granted the claimant request to add a female name along the side of their male name but rejected the claim for an overall erasure of the person's gender status from their identification documents (Decision 67/2018 of Marousi District Court). This emerging theoretical terrain is currently also being picked up by international scholarship (Clucas & Whittle 2017).

[5] For example such issues concern "proving" gender identity in front of asylum committees, negotiating the cultural distances between people's sense of self and the European concepts that need to be employed, NGOs conceptualisations of "vulnerability" as part of their toolkit and, of

was a difficult decision, I concluded that there was a risk of not doing justice to these issues, which demand careful separate consideration such as offered by relevant international literature (Aizura 2012b; Bhanji 2012; Cotten (ed.) 2012; Binnie & Klesse 2013; Shakhsari 2014a, 2014b; Camminga 2017). All the above-mentioned topics could be directions for future research that would hopefully contribute to creating a significant body of work on trans issues in Greece.

As I have explained in this section, the main aim of the thesis is to offer a critical appraisal of the legal framework concerning gender variance and specifically trans issues in the Greek legal order. This quest unfolds into several research questions. Some of these are state-level queries and the other ground, or molecular, level questions. Accordingly, the present research focuses partly on a macro view of gender identity regulation by the state and partly on the molecular experience of transness as it is affected by its legal regulation. Along these lines, the outcome contributes to the current debate on gender identity and the law in Greece by providing both a historiographical depth and a set of critical connections between trans legal reality, specific legal provisions and a variety of state-level projects. The next section gives an overview of the way the thesis is structured and a brief outline of the chapters.

1.2. Thesis Structure and Chapter outline

Having established the main premises of the research, this section breaks down the structure of the thesis and its different parts. The main body of the thesis consists of three parts, each of which contains two to three chapters. The division into parts facilitates a deeper understanding of how the text works as a whole and of what role different chapters play in approaching the issues at hand. The chapters that are grouped in each part have a common aim, a common methodological approach and, thus, in a sense, they share a similar tempo. The different tempos within the thesis not only align with the intention for epistemological openness and methodological creativity but also provide breathing space for different sources,

course, the complex interweaving of (state) racism, Islamophobia and homonationalist discourses and its influence on asylum processes.

arguments and frameworks. Within such a structure, different temporal and conceptual modalities (past and present, archival research and interviews, historical "inverts" and contemporary trans voices) co-exist in the thesis without being merged into a formless whole. In this sense, the modular structure mirrors the nuanced and multi-level discussions the thesis attempts to participate in or even instigate.

Part A (chapters two, three and four) presents the disciplinary, theoretical and epistemological environment within which the research unfolds. By critically reviewing a variety of international and Greek literature, it builds the conceptual backbone of the text and presents its methodological path. Part B (chapters five and six) creates a critical genealogy of the legal management of gender variance in the twentieth century within the Greek legal order through a detailed, quasi archaeological, re-reading of mainly archival material and legal texts from the previous century. Lastly, Part C (chapters seven, eight and nine) brings together legal texts, parliamentary debates, interviews and other material in order to appraise the three legislative pieces (one in each chapter) that constitute the contemporary legal framework on trans identity. The different sources offer different insights and facilitate the move from the macro to the micro and vice versa. Overall, the division into parts makes the access to the text's meanings easier without sacrificing their complexity, which, as noted, constitutes an integral part of the thesis' argument and its original contribution. The chapters that make up the main body of the thesis (other than the introduction and final chapter, that is) unfold as follows.

Chapter two gives an overview of the emergence of trans studies as an area of theorising mainly within Anglophone scholarship and in close proximity with feminist and queer thought (Stryker & Whittle (eds.) 2006; Bettcher 2009; Stryker & Aizura (eds.) 2013; Kunzel 2014). Moreover, it draws attention to the epistemological tensions between trans and queer conceptualisations of gender and the personal, political and theoretical impasses they produced (Currah 1997, 2009, 2017; Prosser 1998a; Halberstam 1998a, 1998b; Namaste [2005] 2011;

Serano 2007). It suggests that the present study is situated in the theoretical space that has been crafted by authors, who call for polyvocality and complexity in the study of trans issues and suggest the necessity for multiple frameworks in order to conceptualise the vast variety of trans experiences (Rubin [1996] 2006; Hale 1998; Currah 2006; Hines 2006; Bettcher 2014). A multiplicity of frameworks can also enable analyses that respond to context specificity in historico-political and geo-temporal terms. Accordingly, the last section of the chapter converses with authors who strive to prioritise alternative "geo-temporal modalities" in the study of gender and sexual politics and practices in order to avoid flattening their diverse historicities (Mizielińska & Kulpa[2011] 2016: 14). This way, the chapter establishes the disciplinary backbone of the thesis by utilising trans studies tools only to the extent that they can be yielded to context-specific past and present modes of gender variance in Greece.

Having set the broader theoretical and disciplinary environment of the thesis, chapter three narrows in on the focus of the present study that is the realm of trans engagement with the law. Initially, the chapter presents the emergence of trans rights scholarship and discusses critical approaches to rights politics within the modern neoliberal Euro-American states (Currah, Juang & Minter 2006; Whittle & Turner 2007; Currah & Moore 2009; Currah 2009; Beger [2004] 2009; Aizura 2012a, 2017; West 2013; Spade [2009] 2015). The following section moves away from this debate towards a conceptualisation of the management of gender variance preceding a trans rights framework. That is, within a series of modern techniques of state governance that utilise sex classification and civil registration as part of standardisation processes that amount to citizen legibility (Scott 1998; Spade 2008; Currah & Moore 2009; Meadow 2010; Moore & Currah 2015). Within legal sex classification, the function of interpretation emerges as central in the process of enforcing and naturalising the gender imperatives of the legal order as they are materialised on ambiguously sexed/gendered subjectivities, such as the historical category of the "hermaphrodite" and its legal treatment (Cover 1986; Whittle 2002).

Chapter four, which concludes Part A, presents in detail the way in which this research was conducted, the sources used, as well as the reasons behind these methodological choices and the challenges they presented. In terms of epistemology, the feminist call for accountable epistemologies has transferred into trans studies as a field *de facto* concerning "the subjugated" (Haraway 1998; Stryker 2006; Haritaworn 2007). Following this debate, chapter four accounts for issues of positionality, reflexivity and ethics in knowledge-production about trans issues and in the present research more specifically. Continuing, the methodological route of the research is presented. The sources and the way they were used are discussed, as well as the challenges encountered in the research process.

Moving on to Part B, chapter five examines the role of sex as a legal category within the establishment of civil registration processes in the early stages of the modern Greek state (Skiadas 2005). Focusing on sex classification in Civil law, it unearths and connects various texts, collected mainly through archival research, concerning the management of "doubtful sex", under the label of "hermaphroditism", during that era (Dreger 1998; Mak 2012). Based on the analysis of these texts, it makes the argument that Civil law scholars, through a series of interpretative gestures, perpetuated the naturalisation of the gender status quo and insisted on a simplified depiction of an evenly sexed, according to a natural taxonomy, population. Their approach, departing from the Legal Medicine canon of detailed taxonomies, served the project of simplification, standardisation and catholic citizen legibility (Scott 1998; Spade 2008; Currah & Moore 2009; Meadow 2010).

Chapter six follows the debate on sex (re)classification into the second half of the twentieth century. Although trans identities, under different nomenclature, were increasingly emerging in the social terrain of that era, the "hermaphrodite" remained a key category for the management of gender variance in the law (Dreger 1998; Mak 2012; Kritsotaki 2013; Tzanaki 2018). Through a parallel reading of this debate with texts from Criminal and Medical law (such as criminal cases found in the Hellenic Police journals), the chapter establishes the intentionality and

insistence behind the refusal of Civil law scholars to acknowledge transsexuality as a social and legal reality. The notion of the "person who had a sex change" is mobilised in the legal debate in order to function as a subject placeholder that allows the hostile regulation of transsexuality without commanding its legal acknowledgement. Last, the analysis of two Greek legal scholars (Dokoumetzidis 1995; Papazisi 2000) are discussed, as they were the only alternative framework offered in that era. Although, their analyses were marginalised and not acknowledged by the dominant debate, a variety of valuable conclusions is drawn through their overview concerning the ideological and epistemological premises of this debate.

Moving onto current issues of gender variance in the law, Part C opens with chapter seven, which comments on the introduction of the first contemporary legislative piece (Law 3896/2010) within the Greek legal order that included a protective provision against discrimination on the grounds of "sex-change." That is, it traces the adaptation of European legislation (2006/54/EC directive) regarding anti-discrimination in employment in the national legal order. Following the overall rationale of the thesis, the effects of this legislation are appraised on a juridical, social and molecular level. Moreover, through my interlocutors' analyses, an empirically grounded critique is articulated that goes beyond the letter of the law and hints towards structural injustices in the distribution of life resources. As no significant effect of the legislation has been traced on a legal or social level, the chapter proceeds to interrogate its broader political workings of the legislation on a state level and its interconnection with the political processes of Europeanisation and their ideological underpinnings.

Chapter eight steps into the politically contested era of the Crisis, which initiated from the financial crisis of 2008-2009. The chapter discusses the introduction of "anti-racist legislation" (Law 4139/2013 and Law 4285/2014), which refers to crimes motivated by the (perceived) characteristics of the victim including sexual orientation and gender identity. This legislation was delivered during a period wherein (state) racist discourses and the systematic targeting of the nation's racial,

gender, religious and sexual Others were instrumental parts of the national governing paradigm (Athanasiou 2012; Carastathis 2015). The contradiction between the ideological underpinnings of this governing paradigm and the anti-racist legislation imperatives is also reflected in the aporetic and ambivalent stance of my interlocutors towards it. Although they appreciate the symbolic and potentially educative function of this legal protection, in our discussions, they underscore the limitations of any framework regarding racism, gender violence and transphobia that focuses mainly on the interpersonal and the eruptive elements while ignoring, and thus rendering invisible, the systemic and atmospheric aspects of it. In view of the seemingly paradoxical relation of the anti-racist legislation and the regime that introduced it, the chapter traces its particular workings in the context it was introduced in and, specifically, regardless of whatever positive potential, its insidious contribution to the legitimisation of systemic racism, violence and gender/sexual hierarchies.

Chapter nine discusses the issue of gender identity legal (mis)recognition and the recent legislative initiative regarding this issue. First, the previously existing framework for gender reclassification and identity documents' amendment is presented and appraised through an empirical lens. Lead by my interlocutors' narratives, the chapter underscores the role of margins of discretion within systems of recognition, as well as informal practices and survival strategies within a broader context of bureaucratic irregularity. The second half of the chapter acquaints the reader with much discussed Law 4491/2017 on gender identity legal recognition. Other than presenting the upsides and downsides of the new legislation that has changed the national paradigm on gender identity recognition, this section of the chapter explores the main parliamentary opposition during the passing of the law and its ideological underpinnings, which draw connections between traditional gender/sexual values, nationalism, and Christian Orthodoxy. Lastly, as in previous chapters, the new legislation is also appraised with regards to the workings it performed on a state-level and, specifically, the aims and effects of its exploitation on the communicational front by the governing party at the time.

As has been established in this introductory chapter, the twofold contribution of the present research consists of a critical genealogy of the legal management of gender variance on one hand and of a multi-level appraisal of contemporary trans-related legislation on the other hand. Moreover, the main premise underpinning the research is that the legal management of gender identity issues by the state adheres, on a state-level, to different projects, which might depart from its declared intention, and, at a ground level, to various informal practices. The different sources utilised in order to deliver the thesis and complicate the emerging discussions concerning gender identity in the Greek legal order compose a text that is the first of its kind within the context in which it is situated. Part A, which follows, weaves the theoretical backbone of the thesis and presents its epistemological premise.

Part A. Theories, Disciplines and Worlds

The first part (chapters two, three and four) of the thesis maps out the disciplinary, theoretical and epistemological environment within which the present research unfolds. To that end, this part consists of three chapters that, combined, create a theoretical and epistemological backdrop against which the analysis of the entire thesis can be comprehended.

Starting from a disciplinary and theoretical exploration of trans studies as an emerging field, in chapter two, I tease out some fundamental issues that often led to polarisations in the field (Stryker & Whittle (eds.) 2006; Bettcher 2009; Stryker & Aizura (eds.) 2013; Kunzel 2014). The chapter explores the main ontological debates that created friction among trans writers as well as the epistemological tensions between some trans and queer approaches (Prosser 1998a; Halberstam 1998a, 1998b; Namaste [2005] 2011; Serano 2007). The purpose of this exploration is not only to give a theoretical background but also to situate my study within these debates in a manner of ontological positioning that underpins my understanding of the issues discussed. Narrowing down to the trans legal field, chapter three, explores theories and concepts that will be used in my analysis of trans engagement with the law (Whittle 2002; Currah, Juang & Minter 2006; Currah 2009; Aizura 2012a, 2017; Spade [2009] 2015). Last, chapter four offers a broader epistemological framework of the study, followed by a detailed account of the way in which the research and analysis was conducted and the rationale behind these methodological choices.

Chapter 2. Queer and Feminist Theorising and Trans Studies

This chapter examines the emergence of trans studies as a field within Anglophone scholarship and its interconnection with feminist and queer legacies (Whittle 2006; Stryker 2006; Bettcher & Garry 2009; Stryker & Aizura 2013; Kunzel 2014). Attention is drawn to the epistemological tensions between trans and queer conceptualisations of gender and the polarisation they produced (Currah 1997, 2003, 2017; Prosser 1998a; Halberstam 1998a, 1998b; Namaste [2005] 2011; Serano 2007). Moving beyond such an impasse and in keeping with my insistence on facing up to complexity, I align with authors who call for polyvocality and complexity in the study of trans issues and work towards critical adaptations of feminist and queer elements (Rubin [1992] 2006; Hale 1998; Hines 2006; Currah 2006; Bettcher 2014). Allowing multiple frameworks to co-exist also works towards a trans analysis that is sensitive to historico-political and geo-temporal specificities. To that end, in the last section of the chapter, I set to problematise linear and universal understandings of (trans) historicity in favour of an analysis that stems from and responds to alternative "geo-temporal modalities" (Mizielińska & Kulpa [2011] 2016: 14). In this sense, I build a framework that utilises queer and feminist theories as they are yielded from trans theorising and experience, and ground these notions further in the local context, thus allowing the possibility of a τρανς[6] framework for my study.

2.1. Claiming a Voice, Establishing a Field

This section traces the emergence of trans studies as a field of knowledge that constitutes the theoretical environment of the present study. The 1990s saw the emergence of contemporary transgender identities in the Anglo-American context.[7]

[6] "Τρανς" is the term trans written in Greek.

[7] Long before the emergence of queer theory in the 1990s, *transsexual* authors, mainly in North America and the UK, were already claiming a space in public discourse (mostly through

Faced with the pathologising underpinning of trans lives, transphobic violence within society and the exclusionary politics of large part of gay/lesbian/feminist communities, the *transgender movement* (and later the corresponding knowledge discipline) emerged as the vehicle for a variety of gender non-conforming identities to establish a place within socio-political communities of North America and the UK (Whittle 1998; Stryker 2006; Bettcher & Garry 2009). The formation of a transgender identity and politics articulated claims of trans recognition, inclusion and liberation that were in conversation with feminist and queer theories and politics. Specifically, issues of gender variance and non-conformity found the space to be analysed within post-structural feminist theories[8] and queer theory,[9] in ways

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autobiographical accounts) to tell the story of transition through the eyes of the subjects instead of the medical experts, which has been the case for prior accounts of gender non-conformity (Morris 1974; Martino 1977; Hunt 1978; Rees 1996). Although this ground-breaking shift was of historical importance, the uniformity that many of these narratives promoted (being trapped in the wrong body and, after transitioning, being at home in the "opposite" sex/gender) proved insufficient, although to some extent necessary, to describe the experience of gender variance and gender-crossing identification.

[8] Post-structural feminism brought poststructuralist theory into feminist theories and praxis, challenging the construction of gender and sexual identities as natural and coherent. Within post-structural feminism, the metaphysical core of the Cartesian subject was dethroned, thus, pointing towards a problematisation of "woman" as an identity that is natural, stable and transcendent of social norms (Athanasiou 2006: 85-86). Challenging the essence of identity, this line of thought, was faced with scepticism on the part of some feminist strands that perceived its de-constructionist analysis as a reduction of the category of "woman" to just "linguistic stuff" (Butler 1993: 28-29; Stanley & Wise 1993; Ramazanoglu 1996; Anderson 2017). Nonetheless, for many, the "unease alliance" (Benhabib 1995) between post-structuralism and feminism did not represent a leap in relativism but, rather, a site that would allow critical engagement with power relations (following often a foucauldian analysis) and an interrogation of the conditions within which subject-positions are naturalised as specific social hierarchies (Athanasiou 2006: 93-94). Post-structuralist feminists were inevitably faced with the fundamental question whether any political critique is possible after the de-centring of the philosophical *cogito*. A question to which post-structuralist feminists took an affirmative stand not only by claiming the radical potentiality of such an analysis but also, often times, by assuming a careful positioning that does not advocate for a complete abandoning of political identities as such rather for their critical deployment (Athanasiou 2006: 94-95).
It is important to highlight that the theoretical distinction between (especially post-structural) feminism and queer theory is schematic and not always that clear. That is, some theorists are both feminist and queer while others do not identify as queer (or poststructuralist) although their work is often labelled as such (Richardson 2012 [2006]: 21).

[9] Queer theory emerged during the 1990s mainly in North American thought. Drawing from feminist/LGBT scholarship and activism as well as AIDS activism and postmodern thought, queer theory as a framework adopted the theoretical tools introduced by poststructuralist theorists and touched upon various fields, such as linguistics, psychoanalysis, aesthetics and literature (Sullivan 2003; Wilchins 2004; Cohen 1997; Eng *et al* 2005). The works of Eve Kosofsky Sedgwick (1990; 1993; 2003), Judith Butler (1990; 1993; 2004), Michael Warner (1993; 1999), Laurent Berlant (1997; 2000), Leo Bersani (1995) and Jack Halberstam (1994; 1998a) are considered seminal for the birth and

that could not have been enabled by other theoretical strands, which ontologically entailed stricter narratives of gender teleology (More & Whittle 1999; Whittle 2002: 62-74).

In this era, Sandy Stone's (1991) "'The Empire' Strikes Back: A Posttranssexual Manifesto", Leslie Feinberg's (1992) "Transgender Liberation: A Movement whose Time has Come" along with Kate Bornstein's (1994) "Gender Outlaws" became landmarks that epitomised these new sets of imperatives, possibilities and aspirations. Such approaches developed a critique of the medical management of trans experience as well as anti-trans feminist and gay/lesbian politics. Moreover, they broke with earlier trans narratives that were heavily invested in a stricter view of gender normativity, articulating the need for a space for multiple gender experiences and embodiments (Feinberg 1992; Sullivan 2003; Meyerowitz 2004; Stryker 2008; Currah 2008a).

Indeed the model of *transgender* (later to become *trans* and more recently *trans**) as an umbrella term[10] and a political project dominated the field of cross-gender identification politics and theory in spite of the scepticism expressed by some of those it was meant to include (Prosser 1998a; Rubin 2003; Namaste [2005] 2011).

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development of the field. Many of the fundamental works of queer theory adopted a foucauldian analysis especially concerning power, sexuality and subjectivity-formation. Gender and sexuality were recognised and analysed as some of the central organising axes of contemporary society, discursively (re)produced in a manner that contributes to the preservation of the normative hegemonic order (Sullivan 2003). Queer scholars articulated a critique of the heteronormative social order and its reproduction through *a posteriori* naturalisation of identities and populations, some of which are deemed deviant in order to secure the dominant status of the privileged ones (Sullivan 2003; Eng *et al* 2005). Initially, queer theory mostly focused on analysing mechanisms of power and the discourses that produce, recognise and normalise sexual identities (Eng *et al* 2005). Nonetheless, in the following years, the work of writers and activists that were in struggle against other socio-political hierarchies claimed the intellectual and political broadening of the field into a more holistic critique including social antagonisms such as race, class, nationality and religion (Cohen 1997; Rodriguez 2003; Ferguson 2004; Namaste [2005] 2011; Johnson & Henderson 2005).

[10] According to Whittle (2000) transgender was defined as:

> *An umbrella term used to define a political and social community which is inclusive of transsexual people, transgender people, cross-dressers (transvestites), and other groups of "gender variant" people such as drag queens and kings, butch lesbians, and "mannish" or "passing" women. "Transgender" has also been used to refer to all persons who express gender in ways not traditionally associated with their sex. Similarly, it has also been used to refer to people who express gender in non-traditional ways, but continue to identify as the sex of their birth (Whittle 2000: 65).*

In the following years, an increasing scholarship (mainly in North America and the UK) started to create a separate knowledge-field at the intersection of queer and feminist theories where "the margins of the academy overlapped with politicised communities of identity" (Stryker 2006: 5; Stryker, Currah & Moore 2008). According to Bettcher and Garry (2009):

> *Transgender studies arose in the early 1990s in close connection to queer theory. It can be best characterized as the coming-to-voice of (some) trans people who have long been the researched objects of sexology, psychiatry, psychoanalysis, and (non-trans) feminist theory (Bettcher & Garry 2009: 1).*

Trans writers as narrators[11] of their own lived experiences produced knowledge through and along their accounts of navigating gender-ambiguous terrains marking the creation of a new body of literature in close proximity to women/feminist and queer studies (Stryker 1994; Wilchins 1997; Devor 1997; Halberstam 1998a; Cromwell 1999; Califia [1997] 2003; Whittle 2000). To that end, scholarship of the trans studies discipline holds in its very core trans experience and expertise, moving beyond the academic paradigm that saw trans people only as the subjects of research rather than as authors. A fact that, as will become apparent in chapter four, has significantly influenced the research and analytical modalities of the present thesis.

By the beginning of the 2000s, a distinguishable interdisciplinary field of academic research and knowledge-production was founded, with the organisation of conferences and publication of special issues and anthologies (Currah 2008a: 93; Noble 2011).[12] These collections of texts set the terms of the international debate

[11] Self-narration in the form of autobiography historically holds a complicated ground in the lives of gender non-conforming people. See Califia's (1997) [2003] chapter "Contemporary Transsexual Autobiography" and Prosser's (1998) chapter "Mirror Images: Transsexuality and Autobiography."

[12] The special issue of GLQ (1998) on trans issues, the "Transgender Rights" collection (Currah, Juang & Minter 2006) and the "Transgender Studies Reader" (Stryker & Whittle 2006) can be said to mark this new academic territory, which Stryker has playfully called "queer theory's evil twin" (Stryker 2004: 2012).

on trans matters and defined the scope of the field as described by Stryker in the introduction to the Transgender Studies Reader:

> *Transgender studies, as we understand it, is the academic field that claims as its purview transsexuality and cross-dressing, some aspects of intersexuality and homosexuality, cross-cultural and historical investigations of human gender diversity, myriad specific subcultural expressions of "gender atypicality," theories of sexed embodiment and subjective gender identity development, law and public policy related to the regulation of gender expression, and many other similar issues (Stryker 2006: 3).*

Since the first generation of trans scholars and activists, different strands of trans writing enriched the field with various accounts, theories and politics (Kunzel 2014). Emerging trans research and advocacy projects within North American and European academia found a ground to build upon, which had already theoretically and methodologically challenged the authoritative research of "transgender phenomena" by medical experts of the previous century (Stryker & Aizura 2013).

As the field of trans studies gained momentum within the Anglo-American academia and while trying to come to terms with the rise of the cultural capital of transgender phenomena, critical voices within the field itself arose to denote the field's "implicit whiteness, U.S.-centricity" and "Anglophone bias" (Aizura 2006; Valentine 2007; Noble 2011; Namaste [2005] 2011; Bhanji 2012; Stryker & Aizura 2013: 4; Ellison *et al* 2017). In the introduction of a special issue of Feminist Studies on "Race and Transgender Studies", Richardson and Meyer (2011) note the lack of representation of people of colour within trans scholarship and articulate the need for integration with Critical Race Theory (Richardson & Meyer 2011). Indeed, increasingly more voices have commented on the lack of conceptualisation of transness within trans theories along the axes of whiteness, national and racial belonging, coloniality and class stratification within capitalism (Aizura 2006; 2012a; 2014; Bhanji 2012; Noble 2013; David 2017; Ellison *et al*. 2017).

By the time the "Transgender Studies Reader 2" was published, the scope of the field had broadened substantially and while this, or any, collection would not

suffice to include the conversations on transgender issues that are taking place globally, it managed to indicate the increasingly transnational and transdisciplinary scope of the field (Stryker & Aizura 2013; Kunzel 2014: 291). Trans literature on issues of gender ontology, critiques of medical discourses and legal/cultural representation had already established a stable basis so that broader themes relating to trans experience in a world of increasing globalisation processes could be explored (Stryker & Aizura 2013; Kunzel 2014).[13] Trans embodiment and subjectivity is currently analysed through various critical lenses such as neoliberal governance and politics of normativity, diaspora and migration, racialisation and national belonging, surveillance and border securitisation, colonial pasts and presents, political economy and productivity (Aizura 2006; Ochoa 2008; Crawford 2008; Irving 2008; Currah & Moore 2009; Spade 2011; Bhanji 2012; Sekuler 2013; Shakhsari 2014a, 2014b). Nonetheless, the perpetuation of the structural and transnational power-relations (even if through a shifting balance) that regulate access to life-resources, institutional support and social capital dictates a continuous reflective process within the field and the discourses it reproduces.

Trans studies continues to grow in Euro-American academia following the legacies that have been schematically presented in this section and moves in close proximity to women/feminist and queer studies. Overall, the relationship between feminist, queer and trans studies (and politics) constitutes an evolving landscape dense with opportunities for synthesis, critique and conflict. Although it is beyond the scope of this study to engage with questions of (in)compatibility between feminist and queer critique[14] or feminist and trans politics,[15] it is important to tease out some of the

[13] Moreover, the launching of the "Transgender Studies Quarterly" journal (TSQ) in 2014 gave a permanent discipline-specific platform for Anglophone academic writers around the world that want to circulate their work as part of an autonomous established field.

[14] For more discussion on the issue see Fineman *et al* 2009; Richardson *et al* 2006; Elliot 2010; Cossman 2012.

[15] According to Kunzel's (2014) appraisal of this debate and its place within the formation of transgender studies:

> The scholarly dialogue most fully developed in transgender studies is in some ways one of the most surprising: from a history of conflict, dismissal, and epistemic disconnect with feminist

tensions in the relationship between trans and queer scholarship which have deeply affected the development of both fields and are crucial for the understanding of trans subjectivity in the present research.

2.2. Epistemological Tensions, Gender Ontologies and Border Wars

Having mapped out trans studies as an area of theorising, I turn to the tensions between and within different strands of trans scholarship and queer analysis and their theoretical and epistemological underpinnings. The dialogue between the authors explored below fleshes out some of the main theoretical and ontological debates in the field of trans studies and anticipates the suggestion for epistemological openness and for multiple, complex and synthetic trans frameworks that is carried throughout the thesis.

Specifically, gender embodiment and the ontological claims of gendered identity have been the main points of synthesis but also friction between trans and queer studies. Queer theory's project of deconstructing heteronormative gender and sexual identities engaged with cross-gender identifying subjects as emblematic figures with a view to the dismantling of sex and gender as binary categories (Currah 1997; Sullivan 2003: 99; Whittle 2006: xii; Hines 2006). This brought a variety of tensions concerning the workings of such theorising on both an epistemological (concerning non-trans writers) as well as an ontological (amongst writers with cross-gender identification experience) level.

The epistemological criticism concerned the utilitarian theorisation of trans subjects as a means to uphold queer (and other poststructuralist) analytical endeavours of deconstructing gender and sexual identities as natural and fixed. Indeed, for

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and women's studies, transgender studies scholars have developed a body of theoretical and empirical work under the rubric of ''transfeminism'' (Kunzel 2014: 293).

For more discussion on the issue see MacDonald 1998; Heyes 2003; Koyama 2003; Whittle 2006; Serano 2007; Bettcher & Garry 2009; Elliot 2010; Connel 2012; Enke (ed.) 2012; Awkward-Rich 2017. In addition, the special issue of TSQ on "Trans/Feminisms" includes a variety of texts many of which analyse different national legacies of trans-feminist conversations (Bettcher & Stryker [eds.] 2016). For analyses that include the emergence of the term "TERF" and the political debate around it see also Bettcher 2017 and Hines 2019.

writers, activists and artists who embraced queer theory, cross-gender identification and its implications became central in the project of demonstrating the constructedness of gender. Some trans writers were quick to pick up on the instrumentalisation of trans experience within queer writings and to bring to the forefront what this entails for trans lives (Felski 1996; Rubin [1992] 2006, Wilson 2002; Rubin 2003; Namaste [2005] 2011; Bettcher 2014; Davy 2018). Moreover, they pointed to the fact that trans experiences and narratives, which went against or beyond the scope of such theoretical schemata, remained marginalised and undertheorised. This line of critique was already thoroughly explored in the polemic texts of Canadian activist and writer Viviane Namaste by the mid-90s. Namaste writes:

> *The violation of compulsory sex/gender relations is one of the topics most frequently addressed by critics in queer theory. These discussions, however, rarely consider the implications of an enforced sex/gender system for people who live outside it. Critics in queer theory are fond of writing about the ways in which specific acts of gender transgression can help dismantle binary gender relations and hegemonic heterosexuality. While such an intellectual program is important, it is equally imperative that we reflect on which aspects of transgender lives are presented and how this discussion is framed (Namaste [2005] 2011: 206).*

Her analysis points to the ways in which trans experience was often de-contextualised and superficially apprehended by queer (non-trans) theorists but also to the lack of engagement with trans issues beyond sex/gender ontologies.[16] Reading the works of Judith Butler, Marjorie Garber, Harold Garfinkel and others, Namaste claims a reduction of transgender subjectivity to "a mere tropological

[16] Namaste makes her point painfully obvious by naming some of the issues that had been cast aside due to the focus on identity debates:

> Violence against transsexuals, lack of access to health care and social services, police harassment of transgender sex workers, the rape of transsexuals in prison, the staggering incidence of HIV within transgender communities, the difficulties transgendered individuals have in finding employment (…) (Namaste [2005] 2011: 227).

figure, a textual and rhetorical device" that is invoked in order to exemplify the categorical crises of postmodernity (Namaste [2005] 2011: 216).

Jay Prosser articulates similar concerns about the encoding of transsexuality as a metaphor and the utilisation of trans experiences within queer accounts as allegories that render obvious the constructedness of all gender (Prosser 1998a: 31). Julia Serano (2007), in a similar vein, describes as "horribly exploitative" and "shamelessly voyeuristic" the detailed bodily accounts concerning gender-variant people given by critical theorists writing on gender and sexuality (Serano 2007: 207). Although Serano's harsh characterisations are not directed necessarily towards queer writers, her analysis firmly opposes the appropriation of the experience of gender-variant people by queer scholars as merely a means to support their theoretical argumentation (Serano 2007: 211). Moreover, these, and other trans writers that criticised the lack of attentiveness of queer engagement with transness, pointed out the selective deployment of trans subjects, which are "interesting only insofar as their subjectivity works to deconstruct categories" while erasing the narratives that contradict the anti-essentialist perception of identity (Currah 1997: 1368; Serano 2007: 211).

The conceptualisation of gender within queer writings brought, painting with a broad brush, the familiar schism of essentialism *vs.* constructionism, which transferred in theoretical and political conversations as a differentiation between *transsexual* and *transgender* (or later genderqueer) politics and identification. The stakes in this debate laid in the possibility of carving spaces for self-identification, political resistance and/or survival. To that end, this debate was of crucial importance in theorising gender-variance and imagining trans frameworks of analysis. Transgender authors, who aligned with queer theory criticised traditional narratives of transsexuality that essentialised gender identity and presented a uniform trans experience of "being trapped in the wrong body" and feeling "at home" in a surgically sexed body (Bettcher 2014). Indeed the rigidity of this narrative could not account for a number of gender-variant identities and practices that were supposedly described by such narratives. Informed by deconstructionist

theories of gender, transgender theories embraced queer and broader poststructuralist imperatives claiming the discursive nature of gender as a construct and the radical potential of gender transgression, liminality and non-normativity (Stone 1991; Feinberg 1992; Bornstein 1994; Halberstam 1998a).

Transgender theories expressed the political and theoretical shift in Anglo-N. American trans politics that brought a change in goals, narratives and practices. This shift and the theoretical discussion it brought are apparent in the early texts of Sandy Stone, Leslie Feinberg and Kate Bornstein mentioned earlier. According to Stone's (1991) posttranssexual manifesto, trans people, instead of aiming to blend-in by passing as "real" men and women, had more to gain by staying vocal about their identities and fighting against the oppression of a polarised gender system.[17] Leslie Feinberg (1992) used the word "transgender" as a broad term for a variety of gender non-conforming people and imagined transgender politics as part of broader social struggles. The intricate and powerful gender imperatives in Feinberg's texts spoke to the ambiguity of gender experiences that not only did not fit neatly into transsexual or gay/lesbian narratives but also carried an immense risk of violence due to their liminality. Author and performer Kate Bornstein's provocative body of work introduced the figure of "gender outlaws" to describe individuals crossing gender-boundaries in various ways, thus, destabilising the entire gendering system and being perceived as threats to those comfortable in the existing power dynamics (Bornstein 1994). Bornstein claimed fluidity as a possibility for identification as well as gender ambiguity as an irrefutable reality that challenges the assumption of a naturally existing system of two mutually excluding genders (Whittle 2002: 74-76; Califia [1997] 2003: 245). Although not all writers from North America and the UK that are included in this line of thought agreed on every aspect, many of them shared the conviction that the supposedly natural gender order was not only oppressive but also escapable (Califia [1997] 2003;

[17] Stone's text, which was a fierce reply to personal anti-trans attacks by non-trans feminists (such as Janice Raymond), set the agenda for many trans activists in the US. This agenda aimed towards visibility, political empowerment and the solicitation of "a new corpus of intellectual and creative work capable of analysing and communicating to others the concrete realities of 'changing sex'" (Stryker 2006: 4).

Wilchins 1997; Whittle 2000; Cromwell 1999; Hale 1998; Halberstam 1998a). Ideally, then, the gender binary as it were, could be resisted, destabilised, deconstructed, and even dismantled.

This political vision of a "gender revolution" gained momentum due to a variety of political and social factors (Califia [1997] 2003: 221-244; Whittle 2002: 69-74; Stryker 2006: 4-6). Key to the gender ontologies entailed in transgender theories and politics was the theory of gender performativity as crystallised in Judith Butler's seminal work "Gender Trouble" (1990) and refined in "Bodies that Matter" (1993) and later texts. Butler (1990, 1993, 2004) re-read J.L. Austin's theory[18] through a Foucauldian lens, using a variety of psychoanalytical, philosophical and anthropological theoretical tools and formulating a queer feminist conceptualisation of gender performativity (Athanasiou 2007: 205). This analysis questions the perception of gender as an innate and stable attribute within the core of the subject, something that one *is*. What is suggested is that gender is not expressed but rather constituted through an abundance of reiterative acts that, in their repetition and through their iterability, in Derrida's terms, produce the self in a performative fashion, creating the illusion of an *a priori* existing substance, "a natural sort of being" (Butler 1990: 30; Butler 1993).

This notion of gender as discursively constructed and naturalised through the concealment of the constitutive effect of the re-iterated actions (that is, of *doing* gender) offers a critique of the regulatory power of gender norms and the consequent unlivability of unintelligibly gendered bodies (Butler 1990; 1993). Moreover, in "Bodies that Matter", Butler seeks to link the concept of performativity with the materiality of sexed bodies and to complicate the reading of sex as a static fact upon which gender is inscribed (Butler 1993). Instead, "sex" is analysed as "a process whereby regulatory norms materialize 'sex' and achieve this materialization through a forcible reiteration of those norms" (Butler 1993: 2). In

[18] According to J. L. Austin's speech-act theory some utterances are not of descriptive nature –as it was supported by positivist language philosophers and linguists- but of a performative one (Austin 1962). Such utterances are thought as a form of action that does not describe an existing reality – thus being true of false- but rather alters or even creates it (Austin 1962).

order to land these points, Butler theorises around and across gender non-normative experiences and practices, such as drag performance, transsexuality and intersexuality, in order to establish the imitative character of gender and the open-endedness of the re-iteration process that materialises sexual difference (Butler 1990; 1993). The theory of gender performativity along with the methodological gesture of introducing cross-gender experiences as a means to reveal the constructedness of gender has generated a heated conversation within trans Anglo-American scholarship.

Trans writers that felt closer to theories that sought innate ontological ties between gender and embodied experience articulated theoretical critiques that often retained the identity and vocabulary of transsexuality to denote a distancing from emerging transgender identities (Felski 1996; Prosser 1998a). Jay Prosser (1998a) offers the most systematic critique of Butler's work along those lines, raising a variety of questions and claiming a theoretical impasse between queer studies' theoretical grounds and the conceptualisation of transsexual experience. Other than a detailed critique regarding the methodological instrumentalisation of trans experience within queer theory, his ontological accounts of transitioning suggest a certain incompatibility of the transsexual experience with queer theories of performativity (Prosser 1998a).[19] Prosser adopts a model of a transgender/transsexual dichotomy and from there embarks upon building a "theory of transsexual embodiment" (Prosser 1998a). Employing French psychoanalyst Didier Anzieu's concept of "skin ego" and drawing from Elizabeth Grosz's "corporeal feminism", he establishes an approach to subjectivity grounded in the flesh, the skin, the repeatedly underlined tangible materiality of the sexed body (Prosser 1998a: 61-96).

Scholars within trans studies have criticised Prosser's analysis in "Second Skins" for, among other things, suggesting a transsexual vs. transgender framework

[19] Prosser asks "if sex as much as gender is performative, an effect of our doing not our being ('gender all along'), how can we conceive of the transsexual as intervening in sex at all" (Prosser 1998a: 64)?

(Halberstam 1998a; Hale 1998; Aizura 2006; Bhanji 2012). More specifically, Prosser's schema not only implies a certain authenticity of transsexual in comparison with transgender experience but also traces this difference in the deep-seated feelings of unease in one's flesh (Prosser 1998a). According to his suggestion for a "politics of home", which is actualised through the refashioning of the body in order to become a gendered home for the self, the (desire for) surgical intervention itself marks the definitional boundaries of the transsexual experience. In order to uphold his categorisation Prosser resorts to a conceptualisation of gender identities that "relies on a belief in the two territories of male and female divided by a flesh border and crossed by surgery and endocrinology" (Halberstam 1998a: 164).

In an attempt to draw clear lines between transsexual, transgender and homosexual as categories, Prosser, looks at the figure of the stone butch as a liminal position between those experiences and concludes that the difference is that "the stone butch, unlike the transsexual, finds a way (I am suggesting her stone sexuality, that act of sweet imagination) to manage the split, to balance in a refigurative desire the difference between material body and body image" (Prosser 1998a: 179). Nonetheless, the choice of Jess Goldberg (Leslie Feinberg's *Stone Butch Blues'* main character) as an example to mark clear gender boundaries does not function in the way Prosser might have wanted. The complexity of Jess's gender experience and medically altered body works silently in the text to undermine the point made by Prosser as the lines he is trying to draw are unavoidably blurred by his own example.

Before lightheartedly dismissing Prosser's framework in its totality, it is crucial to recognise that the debate described here was taking place in the context of what was called "butch/FTM border wars" and carried the tensions that had been erupting within these communities (Rubin [1992] 2006; Halberstam 1994, 1998a, 1998b; Prosser 1998a; Hale 1998; Hines 2006; Aizura 2006). In this context, some of the texts produced include both very defensive and aggressive points that can "easily" be criticised as such, from the vantage point of distance. Nonetheless, precisely because this was a lively conversation, it led to a series of elaborate

(re)positionings considering gender identity (especially masculinities), embodiment and belonging that remain until today cherished for their articulation of gender-variant experiences. For example, following Halberstam's famous statement that "we all transsexuals….and there are no transsexuals," Prosser critically pointed out the apparent erasure of those who, within and despite all the postmodern theoretical eruption, were indeed transsexuals and were struggling to legitimise their existence (Halberstam 1994: 226; Prosser 1998: 14). Halberstam revoked this phrasing recognising the point made by Prosser and reworked a lot of his analysis as a response to Prosser's critique (Halberstam 1998a). Similarly, Prosser had initially used the figure of the stone butch in a more simplified way that flattened significantly its gender and sexual positioning. After Halberstam's (1994; 1998) critique, he reworked his analysis of stone butch identity in order to grasp more of its nuanced complexity and in turn thanked Halberstam for this in a footnote (Prosser 1998: 254, footnote 17).

Reading it within its historico-political context, even if one disagrees with the main imperatives of its theory, *Second Skins* includes concepts of great theoretical and epistemological value for trans theorising. Among these is the epistemological dedication to reclaiming the position of the body in trans theorising. Away from both medicalising narratives and disembodied theorising, Prosser gives a unique account of the affective workings of transitioning and delivers a text that does not just talk *about* the body but a text that feels embodied, a text that bites and bleeds and engages with the fleshliness of trans belonging without being voyeuristic. Jacob Hale's (1998) critique of Prosser's work is useful inasmuch it values his analysis as one positioning but rejects its unproductive methodological gesture of presenting this as *the* positioning, meaning the experience of all trans men. Moreover, Hale points out the impasse of Prosser's "conception of borderlands as 'the uninhabitable space' between painful wrong embodiment and home, and his use of an unproductive opposition of *transgender* and *queer*" (Hale 1998: 340).

Furthermore, although Prosser's analysis indeed has problematic central modalities and is, thus, intensely criticised in more recent trans work,[20] his text remains influential within trans studies and is present in this study for more than one reason. First, because it was one of the first very necessary, critical responses to a mode of theorising cross-gender identification which ignored the lives and agency of the people it analysed. Secondly, because it engaged systematically from a transsexual viewpoint with Judith Butler's work that was (and still is) underpinning many of the discourses around gender. Thirdly, because it goes beyond this criticism to articulate an alternative framework allowing the possibility to imagine trans modes of theorising that are not necessarily contained in a handful of queer notions.

It is precisely this last point, the possibility of self-contained trans theoretical frameworks, that provides an answer to the impasse between trans and queer theorising as it has been analysed in this section. The next section explores the way in which the polarisation between these different sets of approaches can give its place to synthetic understandings of gender embodiment and belonging. It will be suggested that epistemological openness towards multiple trans frameworks can be considered as the most appropriate response to the need for meaningful conceptualisations of varying experiences.

2.3. Letting a Thousand Trans Theories Bloom

The tensions that were described in the previous section led to theoretical and personal impasses. In this section, I present the ways out of such impasses provided by epistemological openness and feminist pedagogies. That is, by utilising a plurality of frameworks in order to theorise trans experiences and to provide them with the possibility of being in close relation to queer and feminist theories but also depart from them when necessary.

[20] Criticism has been articulated towards the rigid categorisation he attempts, his conceptualisation of "politics of home", the claim to a unified trans experience and the coining of dysphoric bodily feelings as an exclusively transsexual experience (Hale 1998; Aizura 2006; Crawford 2008; Bhanji 2012).

As the definitional discussion around transsexual/transgender/queer/genderqueer[21] etc. subjectivities took various directions, it often reproduced sets of polarised (mis)representations. That is, the queer/transgender imperatives were depicted as voluntarist, utopian or even as "playing" in comparison to transsexual approaches that were real and authentic (Halberstam 1998a; Aizura 2006; Bhanji 2012).[22] On the flipside, the same (queer transgender) theories and aesthetics were perceived by others as avant-garde and, by definition, radical, while transsexual narratives of gender embodiment were seen as conservative, misled and naïve (Bettcher 2014; Currah 2017).

This antagonistic understanding of gender modalities and trans gender theories resulted in an abundance of "border zone dwellers", which did not fit neatly into either of the supposedly mutually excluding lines of narratives (Hale 1998). In her insightful text "Of Catamites and Kings", Gayle Rubin suggested to "let a thousand flowers bloom" instead of pitting identities and practices one against the other in the name of gender and sexual identification and politics (Rubin [1992] 2006: 478). Similarly, Hale (1998) imagined that a multiplicity of frameworks was not only possible but also essential in discussions about cross-gender and gender non-conforming experiences:

> *Just as queer, transsexual, transgender, gender-queer, butch, and ftm embodiments and subjectivities are complex and complicatedly different within any one category, so any discussion of them must be complex enough to reflect the complex living, breathing specificities of the lives lived—centrally or marginally—under these signs (Hale 1998: 340).*

[21] Writing in the present day, some of the writers refer to the polarisation between transsexual vs genderqueer and not transsexual vs transgender as the conceptualisation of such terms are defined in their historicity. Nonetheless, the crux of the argument remains the same, that is, the rigidness of theories that rely on the alignment of one model (transsexual/"wrong body" approach) with authenticity and realness or stasis and normativity while the latter model (transgender/genderqueer/"beyond the binary" approach) with subversiveness and agency or, on the flipside, with voluntarism and inauthenticity (Bettcher 2014; Davy 2018).

[22] In such depictions, gender performativity was often oversimplified as mere "performance" (a reading that was far from Butler's actual argument) and the challenging of identity's given core was read as a negation of any sense of gender identity stability.

Indeed, addressing the impasse within the Anglo-N. American trans theories of gender, several writers have since engaged with frameworks that reject a binary representation of trans experiences (as either transsexual or transgender/genderqueer) and acknowledge the overlap of such narratives and modes of belonging.

For example, Talia Mae Bettcher's work is highly critical of the epistemological polarisation[23] that has been discussed above and especially the view that a gender positioning "beyond the binary" is *a priori* subversive, while self-identification as a (trans) man or woman is problematic in itself (Bettcher 2014). Bettcher claims that trans people become "trapped in the wrong theory" and suggests a theoretical frame that utilises feminist theorist Maria Lugones' concept of "multiple worlds of sense," which had been also embedded in Hale's work (Hale 1997a; Bettcher 2014).[24] Applying a Lugonian framework, Bettcher suggests that multiple trans worlds exist and that the trans bodies that are part of them face various forms of oppression by multiple other dominant worlds. The meaning of gender, thus, differs from one world to the other, allowing for alternative resistant conceptualisations of gender-belonging (Bettcher 2014: 389-390). Zowie Davy (2018), in her approach, deploys an intercorporeal materialist frame of analysis, drawing from the work of Deleuze and Guattari, looking at bodily aesthetics and affectivities of both transsexual *and* genderqueer people. She rejects frameworks that see transsexual people solely as subjugated and genderqueer people as *a priori* subversive or, for that matter, any theory that pits these categories as oppositional and claims the political viability of only one against the other.[25] Sally Hines (2006), in her work,

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[23] With regards to the polarisation between transgender and transsexual theorising, Bettcher (2014) notes, that although the transgender model has prevailed within both the academia and political debates, its current conceptualisation includes elements from both "sides" of trans gender theories.

[24] This schema recognises various intertwined worlds "with a logic that is sufficiently self-coherent and sufficiently in contradiction with others to constitute an alternative construction of the social" (Lugones quoted in Bettcher 2014: 389). Multiple worlds can relate in different ways but most importantly give different meanings to given terms and concepts, and employ different practices.

[25] Bodily aesthetic desires are analysed along the unpredictability of gender formation and to that end Davy finds that "both transsexual and genderqueer people's bodily aesthetic assemblages produce desires for and resistances against civil registers of recognition" (Davy 2018: 5). Her analysis

claims the usefulness of queer sociology as a framework to study transgender realities (Hines 2006). Within a queer sociological frame, Hines sees the potential of analysing the discursive and material production of power (macro level) while remaining attentive to the specificities of various trans experiences (micro level) (Hines 2006: 52).[26]

The variety of approaches suggested by different writers in trans studies speaks to the polyvocality and complexity needed to frame these debates. Moreover, although feminist, queer and other poststructuralist concepts are often used to formulate these theories, the quest for meaningful frameworks often dictates a creative distancing from feminist and/or queer notions. Indeed, within poststructuralist theories it became a challenge for many trans individuals (even those adhering to queer imperatives) to make sense of their identity, embodied experience and gender belonging. As Whittle puts it, within such a theoretical framework, "for the trans person's understanding of the self, the question becomes whether gender, at the heart of self-understanding, can be theoretically recuperated" (Whittle 2006: xii). In this vein, Hale's work is exemplary of a mode of self-contained trans theorising which uses feminist and queer legacies but also critically departs from them when needed. In his auto-ethnographic account of a US community of leatherdyke boys and their daddies, Hale suggests that queer theorists in their focus on gender as a regulatory construct have missed the community-based "rich and subtly nuanced discourses of gendered pleasure, practice, desire, and subjectivity" (Hale 1997a: 223).[27] In a careful navigation of

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suggests that in various ways transsexual and genderqueer embodiments are produced within gender and sexuality assemblages as "fleeing, eluding, flowing and leaking" (Davy 2018: 8)

[26] Hines insists on the value of poststructuralist imperatives of deconstructionism but only as they can be informed by a sociological appraisal of lived trans experiences. Looking at such experiences, she concludes that "transgender identity positions and subjectivities are contingently situated alongside divergent gendered experiences", thus, hinting towards the need for theories that are open to such contested narratives of trans genders (Hines 2006: 64).

[27] Hale describes his self-construction as a leatherdyke boy and the importance of SM technology in his (FTM) transition. He's framework of multiple, context-specific and purpose-specific gender statuses can be read closely to Bettcher's (2014) adaptation of Lugones' framework (Hale 1997a). His account of gender categorical differentiation between different social terrains (specific subcultures, legal jurisdictions, medical fields) can be imagined as an example of such multiple worlds of sense.

community-based relational gender formulations, he suggests a nuanced understanding of the organisation and workings of gender categories. Furthermore, Hale's analysis is important inasmuch as it manages to employ fluidity without undermining gender solidification practices and the importance of belonging. He also succeeds in utilising the concept of gender performativity without stripping (trans) gender from its facticity in social/cultural/corporeal terms (Hale 1997a). Hale's insightful analysis indicates how crucial specificities are within different communities, as well as how they can show us the way to critically recuperate aspects of identity and gender through complex gender and sexual configurations.[28]

Following these suggestions on how to think and write about trans issues, the frame of this study is not solely feminist and/or queer. It relies often on feminist and queer concepts as they are yielded by trans specificity and critique. Other than the methodological inclusion of trans accounts, this is also enabled by the employment of trans theories and arguments that do not necessarily fit neatly within feminist and/or queer frameworks.[29] Such an analysis is enabled by feminist and queer legacies but also reserves the right to depart - to break or "take a break" - from feminist and/or queer concepts when necessary (Keegan 2018). More importantly, this gesture is, in itself, inherently connected with feminist and queer pedagogies that mould theory through and along complexity, specificity, open-

[28] Eve Kosofsky Sedgwick appears to be surprised and fascinated by the way Hale uses the concept of the *self* to theorise complex gender and sexual experiences and embodiments without folding back to a "conservative essentialism" (Sedgwick 1997: 238). Sedgwick not only is open to Hale's suggestion of the "inadequacy of available theoretical languages concerning gender" but also to his affective and relational account of self-recognition (Sedgwick 1997: 236). She notes:
Rather than using self as an essentialist or conservative concept, and rather than simply throwing it into free fall or free play, the itineraries sketched in this essay seem to articulate an altogether different, theoretically very important possibility: something like identification with what is, at any given moment, understood to be the growing edge of a self. […] Self, in fact, like gender, can motivate and instantiate change as readily as stasis. Perhaps, indeed, it is a smug and sterile opposition between stasis and change, between passivity and agency, between hegemony and subversion, that such accounts of the journeys of subjectivity can most importantly challenge (Sedgwick 1997: 238-9).
This also indicates a point that will not be explored here, that is, that queer and feminist theories have in turn much to gain in philosophical and epistemological terms by being open to different meaning-making frameworks deployed in trans experiences.

[29] For example, other than Prosser's critique that suggests stepping out of the queer field, it has been claimed even within queer writings, that the theory of performativity appears to find its limits in the discussion of some trans experiences (Raj 2011).

endedness and ambiguity (Haraway 1988; Anzaldúa ([1987] 2012); Sedgwick 1990, hooks 1989). In this sense, feminist and queer pedagogies carry within them the tools that allow theory to be yielded and transformed by the specificity of trans lived experience.

In order to fully comprehend this, it is crucial to remember the deep influence of feminist, and later queer theories, on early texts of transgender scholarship. For example, Sandy Stone's posttransexual manifesto, which is often cited as one of the starting points of North American transgender scholarship, was influenced by, among others, the thoughts of Donna Haraway and Gloria Anzaldúa (Stone 1991). Anzaldúa's theory of the *new mestiza*[30], as well as Haraway's investment in hybridity are indicative of the theoretical underpinnings of a field whose *de facto* overarching theme is border-crossing and the realities of those who cross or inhibit or trouble specific categorical borders. Tracing such theoretical ties in the foundations of trans scholarship allows for an understanding of its epistemological interaction with feminist and queer frameworks. In this vein, I suggest that it is precisely through and along feminist and queer engagements with theory and knowledge-production that the proximity and the distancing of trans frameworks from those disciplines should be understood.

As has been established, the impasses emerging within trans theorising as well as between trans and queer lines of analysis can be overcome by accepting multiple frameworks of theorising as meaningful instead of retaining polarised understandings of gender belonging. Moreover, although feminist and queer theoretical legacies have proved valuable to the emergence of trans discourses, it is necessary to acknowledge that trans scholarship might, in its turn, bring its own set of tools. In this vein, I claim that within feminist and queer pedagogical legacies lay the ways in which to think and write about trans issues by using feminist and queer

[30] Anzaldúa ([1987] 2012) in *Borderlands/La Frontera* carves out a theoretical and political space for a subject that claims its multiplicity and refuses to be subsumed in a simplified version of itself. Anzaldúa's own experience as "a border woman" dictates *la mezcla* not only as a modality of belonging but also as a way of writing and theorising, which refuses to be contained in linguistic, disciplinary and theoretical patterns that cannot grasp the reality of inhabiting ethnical, geographical, sexual and political borders (Anzaldúa [1987] 2012).

analyses and concepts but also by departing from them when dictated by the specificity of lived experience.

Accordingly, discussing and writing about trans issues is enriched by being open to different understandings of gender identification processes within various contexts. The quest for meaningful frameworks when crossing national and cultural borders demands constant renegotiations not only of concepts and theoretical tools but also of political imperatives and, even more so, historicities. To that end, engaging with another context than those which have hosted these debates means (or should mean) to engage with different conceptualisations, nuances and genealogies. Taking this into account, the next section demonstrates the way in which the importance of context-specificity can be taken into account when employing specifically Anglo-N. American theories in what might be considered peripheral or semi-peripheral *loci*.

2.4. At the Same(?) Time, Somewhere Else…

The debates outlined in the previous parts have taken place in specific geo-temporal contexts (mainly North American and UK academia and activism). This section considers the epistemological gestures that might allow the transfer of inputs from these debates to alternative contexts without flattening their historicity. Specifically, through the utilisation of critiques from alternative contexts I attempt to build a framework that allows the discussion of gender variance and the law in relation to context-specific issues, such as Europeanisation processes, Greek national(ist) politics and Crisis discourses.

The centrality of the Anglophone contexts in the production, legitimation and circulation of knowledge creates a variety of effects including a procrustean theorisation and historicisation of heterogeneous experiences and socio-political processes (Stychin 1998; Binnie 2004; Namaste [2005] 2011; Lewis 2006; Kulpa & Mizielińska [2011] 2016). In this vein, the use of political and theoretical notions of gender and sexuality as universally applicable stems from, and implicitly reproduces, power relations connected to histories of colonialism, imperialism and

dominance.[31] Accordingly, the Anglo-American genealogy of queer/trans movements and theories, often situated only in time but not in space (in specific geo-political *loci*) is presented as *the* history instead of one history among many others (Mizielińska & Kulpa[2011] 2016). Such a framing does not acknowledge or engage with the different contexts in which trans and queer scholarship and politics have travelled to and have been re-articulated within connecting alternative socio-political landscapes and their histories (Mizielińska [2011] 2016).

Trans studies as a field cannot entirely overthrow its Anglo-American theoretical, cultural and linguistic modalities, at least no more than any other field of similar origins, as that would imply that such a gesture of complete de-contextualisation is possible or desired. Neither should it, though, ignore these power-dynamics, as well as the ways in which Anglo-American modalities are imported and re-worked in other contexts within an increasingly globalised and transnational cultural and political landscape. With this in mind, it is imperative to explore these tensions in order to use (and not be used by) the valuable analytical tools provided by Anglophone trans and queer theories. That is, it becomes imperative to ask: What does it mean to write about trans issues *at the same time* but *somewhere else*? Somewhere where legal, political and theoretical genealogies are different and where trans studies (or queer studies), as such, never *was*. How can these (hi)stories be told and understood in the present moment through and against a globalised but also fragmented grammar of gender and sexuality theories?

Useful insights for such an endeavour are provided by critical approaches within LGBTI+ and queer critical scholarship emerging at "contemporary peripheries" of Europe (Kulpa & Mizielińska [2011] 2016).[32] Kulpa and Mizielińska's ([2011] 2016) anthology titled *De-Centring Western Sexualities: Central and Eastern European*

[31] The TSQ journal has featured a variety of special issues in a manner that seems to be attentive to earlier criticisms within the field (e.g. "Decolonizing the Transgender Imaginary" (Aizura *et al.* 2016), "The Issue of Blackness" (Ellison *et al.* 2017) and "Trans-in-Asia, Asia-in-Trans" (Chiang *et al*. 2018)).

[32] Central and Eastern (and to some extent South) European scholarship has pointed out the importance of locality in LGBT and queer politics and knowledge-production (Štulhofer & Sandfort (eds.) 2005; Kuhar & Takács (eds.) 2007; Renkin 2009; Kulpa & Mizielińska [2011] 2016; Canakis 2013; Navickaitė 2014; Kahlina 2015; Bilić (ed.) 2016; Rexhepi 2016).

Perspectives has been an important milestone in the development of this debate. Mizielińska and Kulpa ([2011] 2016), in their introduction, suggest a schema of "Western and Eastern geo-temporal modalities" within which "Western" time is a time of sequence with the different models of LGBTI+ politics and theories following one another (homophile movement/gay liberation and lesbian feminism/AIDS activism/LGBT and queer theory) (Mizielińska & Kulpa [2011] 2016: 14-19). In this model, CEE time is "communist time" up until the fall of the "Iron Curtain" and, following 1989, it is a time of coincidence, a "knotted time" where all these different political and theoretical concepts are applied "at once" Mizielińska & Kulpa [2011] 2016: 16).

> *(…) a time of mismatched models and realities, strategies and possibilities, understandings and uses, 'all at once'. It is the time when 'real' and 'fake', 'the original' and 'the copy' collapse into 'the same'/'the one'; and yet, nothing is the same, nothing is straight any more. (Had it ever been?) (Mizielińska & Kulpa[2011] 2016: 16).*

The model of Kulpa and Mizielińska features several points that are open to criticism and have been discussed by other authors who nonetheless recognise the crucial value of this body of work (Pichardo Galán 2013; Takács 2013; Navickaitė 2014).

The core criticism facing this schema is that it does not move beyond the unilateral evolutionary tale of progress and, especially in the "Western time," it flattens the complexities of the contexts grouped under the sign of the West, while also taking for granted the dominant timeline and value of the milestones within it (Pichardo Galán 2013; Takács 2013; Navickaitė 2014). Indeed, although the book sets out to challenge the monotemporal understanding of this genealogy, at times it appears to slip back into it. Arguments such as Mizielińska and Kulpa's point that the anti-social critique against futurity (epitomised in Lee Edelman's *No* Future published in 2004) cannot register in contexts wherein queers do not actually have a future *yet*

or that it is *too early* for concepts such as homonormativity[33] and homonationalism[34] appear as such slippages (Mizielińska & Kulpa [2011] 2016: 18; Kulpa [2011] 2016: 58). Although imported concepts can indeed remain empty signifiers within other contexts, the way these arguments are articulated follows the (*chrono*)logic of *something* having to be established before any *critique of something* might appear - a (*chrono*)logic that the authors themselves rightfully challenge for the CEE contexts where "in a sense a deconstruction coincides with the construction" (Mizielińska [2011] 2016: 91).

Other points of critique refer to the use of postcolonial theories as directly applicable in the post-socialist context. Rasa Navickaitė (2014) offers a detailed critique of such an unproblematic analogy of post-socialist and postcolonial contexts that underpins Mizielińska and Kulpa's model. This taps into a broader debate concerning Balkanism and its relation to the European imaginary as well as the suitability of the concept of Orientalism, as theorised by Edward Said (1978), and of other tools of postcolonialist thought in the Balkan case (Bakić-Hayden & Robert 1992; Todorova [1997] 2009; Goldsworthy 1998; Bjelić 2002; Lampropoulos

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[33] The term "homonormativity" was popularised in 21st century politics and academic work in the sense that Lisa Duggan (2003) used in "The Twilight of Equality," that is, as:
A politics that does not contest dominant heternomative assumptions and institutions, but upholds and sustains them, while promising the possibility of a demobilised gay constituency and a privitized, depoliticized gay culture anchored in domesticity and consumption (Duggan 2003: 50).
This concept obviously refers to contexts, such as the U.S. or the U.K., wherein LGBT assimilation politics have formed during the last decades new possibilities of sexual citizenship for those most privileged within the LGBT populations. Nonetheless, as Berlant and Warner had warned, the thoroughly naturalised character of heterosexuality will not allow for homonormativity to ever become an equivalent to heteronormativity and should not be analysed as such (Berlant & Warner 1998). Indeed, Duggan herself notes:
I am riffling here on the term heteronormativity, introduced by Michael Warner. I don't mean the terms to be parallel; there is no structure for gay life, no matter how conservative or normalizing that might compare to the institutions promoting and sustaining heterosexual coupling (Duggan 2003: 94, no 15).
The "travelling" of this idea into contemporary peripheries, where this kind of gay culture and politics were only (if at all) possible to a very limited extent, accounts for surprising political effects (Mizielińska [2011] 2016).

[34] Jasbir Puar coined the term "homonationalism" in 2007 in her book "Terrorist Assemblages: Homonationalism in Queer Times." She built on Duggan's concept of homonormativity to establish a critique of "how lesbian and gay liberal rights discourses produce narratives of progress and modernity that continue to accord some populations access to cultural and legal forms of citizenship at the expense of the partial and full expulsion from those rights of other populations" (Puar 2013: 25). :

2003; Carastathis 2014). To that end, although the insights of postcolonial writings are valuable, it has been argued that their utilisation in contexts that are subject to international imperialist projects but do not have a history of colonial occupation *per se* should be very attentive (Chari & Verdery 2009; Todorova [1997] 2009; Navickaitė 2014).

Maria Todorova ([1997] 2009), whose work on Balkanism is highly influential, suggests that "the Balkans' semicolonial, quasi-colonial, but clearly not purely colonial status" creates an undeniable bond between critical Balkan studies and theories of Orientalism and Postcolonialism (Todorova [1997] 2009: 16). Nonetheless, she finds the conflation of imperialism and subordination in the Balkan context with histories, and thus theories, of (post)coloniality not only historically questionable but also methodologically inexpedient (Todorova [1997] 2009: 17, 193-201). Bakić-Hayden and Robert (1992), on the other hand, suggest that the orientalist perception that underlies the colonial understanding of the "West" and its Others can be found in different "gradations," thus creating a variety of hierarchies of comparatively more or less "Eastern" cultures and identities (Bakić-Hayden & Robert 1992). Last, it has been argued that it is not just the "neo-colonialist" European projects that call for the use of postcolonial critique in the Balkans but earlier colonial legacies that have been erased as such (Rexhepi 2018). Although these different approaches will not be thoroughly examined here, their common denominator is that whether studied within or in proximity to Orientalism and postcoloniality, the discursive construction of the Balkans is heavily imbedded with "West" vs. "East" oriented narratives.

Returning to the critique of Mizielińska and Kulpa's model, according to Navickaitė (2014), their model does not challenge the epistemological divide of "West" vs. "East" but rather reverses the power dynamics and produces a romanticised view of the post-socialist context as inherently queer as opposed to a static "straight" Western counterpart. Last, as both Takácks (2013) and Pichardo Galán (2013) point out, the ambitious project of "de-centring" does not really take place as most of the concepts and frameworks used are indeed of Anglo-Saxon or North American

origins and, of course, written in English. Nonetheless, both authors praise the value of the anthology in offering such "peripheral" accounts and analyses of under-represented territories and politics, thus, "doing their work" towards the emergence of alternative critiques on sexuality (Takács 2013; Pichardo Galán 2013: 101).

Although I agree with most of the critiques of this model, I do follow some of its theoretical threads that prove crucial when thinking about contexts that are not central in the production and distribution of gender and sexuality theories. I stay with the idea of "contemporary peripheries" as well as the concept of "an expended 'now' in which past, present and future do not follow one after another (…) but coincide and coexist" (Mizielińska [2011] 2016: 100). The problematisation of linear temporalities and universalising concepts dictates the strenuous but essential task of holding multiple conceptualisations and modes of existence in tension rather than collapsing them into one linear, and thus seemingly coherent, narrative. In this vein, I share Mizielińska and Kulpa's path up to a point but also depart from it in order to actualise my own route. The liminal geo-political place of Greece in Europe allows for its loose framing as a "contemporary periphery", which, according to Mizielińska and Kulpa ([2011] 2016), is defined by being "'European enough' (geographically), 'yet not enough advanced' to become 'Western' (temporally)" (Mizielińska & Kulpa[2011] 2016: 18). In such a context of geopolitical liminality, Mizielińska and Kulpa's framework offers the epistemological space to think about gender and sexuality issues within this "in-betweenness" (Mizielińska & Kulpa 2013: 103).

Nonetheless, Greece has its own timeline which does not share the "communist time" of CEE countries but is still different from North European historicities. Standing at the edge of what is described in broad terms as "West" and "East", Greece is culturally and politically included both in the Balkans (often as an imperialist power within that context, Huliaras and Tsardanidis 2006) but also in Southern Europe's "PIGS" (Portugal, Italy, Greece, Spain). Moreover, other than not sharing the past of a communist regime with other Balkan states, Greece also

differs vastly with regards to it's relation to Europe and the "West" because of the complexities created by Hellenism (Herzfeld 1987; Gourgouris 1996; Koundoura [2007] (2012); Tziovas 2001, 2014; Carastathis 2014). Indeed, the idea of Hellenism and the supposed continuity between –a whitewashed version of- ancient Greek ideals and the contemporary European civilisation creates a conundrum for the positioning of modern Greek identities within the contemporary European imaginary.

To certain extent, from before the Greek state joined the European Communities up to the present day, it has been felt that Greece is "European not because of its geographical location but because she [Greece] 'was the birthplace of European civilisation'" (Huliaras and Tsardanidis 2006: 478). Unsurprisingly, the European classicist fantasy of a glorified Aryanised Greek past continuously clashes with the reality of modern Greece. This constitutes steadily a disappointment for the "frustrated Philhellenes" that have been expecting to find the classicist ideals reflected in the cultural practices of modern Greece (Herzfeld 1987; Todorova [1997] 2009: 92; Carastasthis 2014). Confronted with a people that does not correspond culturally, or even racially, to this romanticised ideal "the west's 'sympathy' for Greek culture extends only to its whitewashed ancient form, not its ineluctably pre-modern contemporary underdevelopment" (Carastathis 2014: 4). This constructed idea of Greekness that has been "a yardstick of cultural self-definition for all of Europe" and that is also very popular within Greek nationalist and patriotic discourses, presents modern Greece as fallen from the Hellenist ideal, which has nonetheless always been a European fantasy (Herzfeld 1987: 48). As a result, modern Greeks "in their endlessly attributed imperfections, […] are still atoning politically for a fall defined as such by the hard hand of occidental power" (Herzfeld 1987: 48).

Under this prism, although Said himself glossed over the relationship of Hellenism with Orientalism claiming simply their incomparability (Said quoted in Carastathis 2014:3), many writers have suggested that a critical study of the structure, effects and role of Hellenism offers a more nuanced understanding of how it made possible

for Greece to appear, at the same time, as both Europe's origin and Europe's backward Other (Herzfeld 1987; Koundoura [2007] 2012, Tziovas 2014). As Tziovas explains:

> *The loaded relationship between ancient ruins, the Hellenic topos, and the European logos about them has offered scholars the opportunity to study Greece in the context of postcolonial studies by employing the concepts of crypto-colonialism or 'colonialism of the mind' and the Foucauldian notion of heterotopia. […] Considered to lie outside the West, but also perceived by the western imagination as a place of origins, Greece is seen as a heterotopic space of ruins, set apart yet not apart, mythic and real at the same time (Tziovas 2014: 3).*

Accordingly, Carastathis has argued that the work performed by Hellenism is rather insidious and that it confers an "Orientalist structure—or, at least, [a] kinship with Orientalism" (Carastathis 2014: 4). Undoubtedly, tracing the complex discursive and ideological interplays that constitute modern Greeks as less advanced than other Europeans and less European than their own ancestors (that is, of how these ancestors were imagined by the Euro-American classicists to be), reveals many of the tensions underpinning the Greek national identity. Even though, "throughout its contemporary history since its foundation as a nation-state, Greece has been subject to indirect western European rule, and U.S.-supported dictatorships," the Hellenistic appropriation of the Greek past and its effects on the formation of modern Greek identity could be seen more as "a metaphorical form of colonialism" or a "colonization of the ideal" (Carastathis 2014: 4; Tziovas 2014: 3; Gourgouris 1996: 124).

By this token, following Todorova, I would stay with the question "whether the methodological contribution of subaltern and postcolonial studies (as developed for India and expanded and refined for Africa and Latin America) can be meaningfully applied to the Balkans" and specifically Greece (Todorova [1997] 2009: 17). Indeed, given the historical specificity and constitutive intensity (even in the self-understanding of colonised peoples) of the colonial rule, I would be very hesitant

towards a direct application of postcolonialist theories and concepts for the Greek case. In any case, even if one does not fully accept the thesis concerning the orientalist discursive structure of Hellenism, it is commonly accepted that the study of modern Greece is riddled with questions about its positioning within the schemata of European vs. Other, Occidental vs. Oriental, West vs. East etc. The liminal geopolitical positioning, the culturally and ethnically mixed past of the region and the particular working of Hellenist discourses perpetually sustain the contestation, both internally and on an international terrain, regarding the identity of Greece as a Balkan or European state and its understanding as an "equally developed" counterpart of other Western states.

To that end, it is essential to develop an analysis that takes into account specifically the politics of Greek nationalism and ethno-sexual violence, the intricate workings of Balkanism and Hellenism, discourses of Europeanisation and, more recently, the effects and politics of the Greek Crisis and what has been called the "migrant crisis". In this vein, the regulation of legal gender is analysed in the present text in the intersections of LGBTI+ rights politics, Europeanisation processes and nation-building ideological discourses. By utilising context-specific critiques, I locate the formulation of gender normative discourses in the heart of Greek nationalist politics and the forging of national identity through the ideological triptych of *πατρίς-θρησκεία-οικογένεια* (motherland-religion-family) (Varikas 1993; Halkias 2004; Apostolidou 2014). The centrality of national ideology in the constitution of patriotic heterosexuality is explored through the analytical lens provided by Greek critiques of such ethno-sexual politics (Athanasiou 2007, 2012; Canakis 2013; Chalkidou 2013; Carastathis 2015). Conceptualising the "national body" as gendered and sexually threatened in specific ways, I step into a political terrain very different from, for example, the North American, thus, allowing myself theoretical diversions towards debates on Europeanisation, Orthodox Christianity, crisis-scapes and specific forms of racialised violence (Athanasiou 2012; Canakis 2013). In this sense, I would not claim this study to have a trans framework but rather a τρανς framework. That is to say, a context-specific utilisation of trans studies scholarship

as it is informed by non-Anglo-American critiques and the input of trans lived experiences in Greece.

Moreover, concerning LGBTI+ and queer politics and theories in Greece, I attempt to use the space provided by Kulpa and Mizielińska's approach to account for "temporal disjunctions" such as not necessarily having a long institutional legacy of gay identity politics before the emergence of queer politics or having the critique towards homonormativity emerging at the same time, or even before, homornomativity itself (Mizielińska & Kulpa [2011] 2016: 14).[35] Within this "queer asynchrony" (Mizielińska [2011] 2016), criticisms, for example, of the institutionalisation of queer and trans studies and politics have travelled and resonated with writers and activists in Greece while there has never been a single department of queer or trans studies.[36] Therefore, within the Greek context, queer critique, as a political discourse first and later as an academic and artistic project, has its own timeline where/when LGBTI+ *and* queer identities and strategies were deployed *at the same time*. Similarly, with Kulpa and Mizielińska's claim for CEE countries, "queer and gay in Greece have been going on together for quite some time" (Papanikolaou 2018b: 31:16'').

An example of diverse political temporalities can be found in the development of the Athens Pride of which the first march (2005) already included critical discourses on commercialisation and assimilation, as well as various radical political slogans that had travelled to Athens long before there was an official Athens Pride. Claims to space and identity were combined with the questioning of identity and homonormativity, as well as politics of hope were articulated along with anti-future

[35] Indeed, Mizielińska's analysis of the Polish context seems to have many similarities with contemporary Greek historicity of LGBT politics where "in a sense a deconstruction coincides with the construction" (Mizielińska [2011] 2016: 91).

[36] The first volume on LGBT/queer politics in Greece was published in 2012 and was a result of collaboration between activists and scholars (Apostolelli & Chalkia 2012). Up to then, there was barely any queer scholarship in Greek but there was already a body of queer texts from political groups (Apostolelli & Chalkia 2012: 17-18).

and anti-social aggression.[37] Although the struggle to claim Athens Pride as a non-commercial political event appears to have been lost, local Pride-like events have been organised in smaller cities following different models of self-organisation, anti-consumerism and anti-racist politics.[38] These political events do not come *after* a commercial local Pride and have varying relationships with the Athens Pride. Are they, then, *ahead* or *behind* in the development of LGBTI+/queer politics compared to commercial Prides of European cities? How can they be situated within the Stonewall timeline or the much-contested Belgrade Pride timeline (Bilić 2016)? As it becomes obvious, to line up such events within a linear universal timeline of "simple replications" of Stonewall oversees their political potentiality (Lalor 2015: 21). Moreover, it cannot be done. At least not in a meaningful way.

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[37] The first Athens Pride marches included (among others) LGBT blocks claiming gay marriage, left-wing blocks (coming of course as allies, not as left wing *and* LGBT), an anarchist block (as well mostly as allies), and, scattered within these different blocks, the newly forming queer groups. The birth of the official Athens Pride and its attempt to establish itself institutionally, politically and commercially coincided with the birth of queer critiques towards such political endeavours. The first Athens Pride marches had also occasional encounters with fascist and Christian groups and, overall, have given rise to intense debates within various political scenes throughout the years (see also Boukli 2018 for the recent reaction in the form of 'Straight Pride'). These political discourses fused at the very first Pride march (and many of the following) as did pop-music with radical political chants and commercial flyers with political stencils and slogans. Some of the slogans of the political group *queericulum vitae* for the first Athens Pride included: "homosexuality is a possibility", "the faggots and lesbians of your city wish you a good summer", "heterosexuality is a political system", "pride is (not) a protest", "patriarchy is a political system", "pride is (not) a celebration", "heteronormativity is a political system", "we don't like kids, we like their daddies", "how many normativities fit in your pants?" (QVzine website). QV's playful slogans (that kept coming for a decade in the Prides to follow) expressed the tensions and ambivalence of doing queer politics in a context that LGBT rights have not been established. The group's critical participation in such events often included the spreading of leaflets and slogans that openly expressed the conflicting political desires within the first generation of queer politics in Athens ("pride is (not) a protest", "pride is (not) a celebration").

[38] Since 2015 in the city of Thessaloniki, which had its first official Pride in 2010, there is a "RADical self-organised Thessaloniki Pride for LGBTQIA+ Claims and the Liberation of Gender and Sexuality". The Radical Thessaloniki Pride is self-financed "without sponsorships from companies, embassies and the European Union" and organised through open horizontal assemblies (Thessaloniki Pride website). In 2015, the island of Crete saw the first "Visibility and Rights Assertion for Liberation of Gender, Body and Sexuality Festival," known as well as Crete LGBTQI+ Pride (Crete Pride website). This event follows the same principles of self-organisation and anti-hierarchical decision-making and has similar political goals. Last, since 2016 in the city of Patras there is a "LGBTQI+ Pride Festival for the Liberation of Gender, Body and Sexuality; Against Repression and Discrimination". Similarly, the LGBTQI+ Patras (its shortened title) is organised horizontally, without sponsors/companies/political parties and has strong anti-capitalist and anti-assimilationist political imperatives while still collaborating with LGBT institutional groups.
All three events connect with other local struggles (e.g. migrant groups, right to the city struggles) and include a march that marks the end of a two or three-day schedule of political discussions, workshops, screenings, and performances and usually a closing party.

Similarly, the politics of travesti (τραβεστί) activists of the 1980s sit uneasily with such attempts at temporal translation.[39] The framing of such political archives within monotemporal concepts of history proves impossible and unproductive. Was the discourse of those activists regarding sex-work *ahead of its time*? The re-emergence of such work as a point of interest for contemporary queer and LGBT politics points towards a need for frameworks that can accommodate a relationship between past and present (as well as other pasts and presents) that is not linear and unidirectional. It should be, thus, taken into account that different contexts have given rise to alternative political genealogies and conceptualisations of gender and sexual belonging.

In this vein, I try to employ a framework that is not just trans and/or queer but rather *τρανς* and/or *κουήρ*. That is, a framework that is committed to the localisation of theories and concepts that do not originally refer to the Greek context and responds to the historical and political specificity of this context. In this process, I suggest that writing about issues of gender and sexuality from within communities of alternative political and cultural historicities can be accommodated by an openness to different political and theoretical conceptualisations and, even more so, to diverse genealogies and radical "exercises of historical retrieval and archival reappropriation" (Papanikolaou 2018b: 51.17'). Nonetheless, although I

[39] For example in the recent years there has been a new-found interest in the early works of Paola Revenioti, a trans woman, activist, sex worker and artist. From 1981 to 1993, Paola (self-identifying as a τραβεστί and a prostitute) published a magazine of sexual anti-authoritarian politics (including social critique, interviews, poems, erotica etc.), whose content is considered radical for today's politics in Greece (Faubion 1993; Papanikolaou 2018a). The magazine had newspaper-like appearance and was financed by the sex work of Paola and the contributions of friends and supporters within the Greek underground and intelligentsia. It was titled "Το Κράξιμο" (To Kraximo), which translates (or struggles to be translated) as "heckling" but also outing or gay/trans bashing, and it featured original photos of young studs taken by Paola next to anarchist analyses and τραβεστί street workers' anecdotes next to interviews with intellectuals such as Félix Guattari (Revenioti [1981-1993] 2007). Above its title it read, "Any labour with intention of profit is prostitution" (*κάθε εργασία με σκοπό το κέρδος είναι πορνεία*) and beneath "journal of revolutionary homosexual expression" (*περιοδικό επαναστατικής ομοφυλόφιλης έκφρασης*) (Revenioti [1981-1993] 2007). Can the discourse of Paola Revenioti in the 1980s be seen as a precursor of- or a (utopian) future for- today's trans or sex work politics? In which stage of international transgender history can we situate her claim of *homosexual* desire, anti-authoritarian politics and erotic art, which was persecuted by the law but embraced by part of the intelligentsia of that time?

employ various theoretical concepts and make odd connections in the attempt to remain committed to the context in hand, this study is enabled to a large extent by legal and political theories of Anglo-N. American origins. My aim is to combine some of these theories, which have been presented in the previous sections, with Greek critiques and τρανς lived experience to tell a story of τρανς legal regulation and recognition in Greece without flattening its complex historicity.

Closing this chapter, I have given an overview of the theoretical and disciplinary environment of the present study. That is, I have traced the emergence of trans studies as a field and have outlined some of the main debates and tensions within the field and along its proximity to queer theories. My own approach aligns with the suggestion that multiple frameworks, theories and concepts are necessary in order to think about gender identities without lapsing towards self-confirming theoretical schemata (such as the organising of trans experiences along polarised locations of *a priori* radical vs. conservative, critical vs. naïve, cutting edge vs. out-dated identities). With that in mind, gender identity and trans realities are analysed in this study through a framework which draws from queer and feminist theories but nonetheless is not a solely queer or feminist framework. What makes up the theoretical backbone of the present analysis are critical adaptations of such theories by trans studies' writers as they are informed and fertilised by non-Anglo-American critiques and the input of trans lived experiences in Greece. The next chapter provides a set of more specialised theories and concepts regarding the recognition and regulation of gender by the state through legal apparatuses and a critical interrogation of some of the power embedded within them.

Chapter 3. Theories of Trans Engagement with Law and the State

Chapter three narrows down the position of the present research within the wider theoretical and disciplinary environment that has been presented in the previous chapter and, specifically, sets to engage with some of the discussions that have taken place in Euro-American scholarship concerning trans engagement with the law (Whittle & Turner 2007; Currah & Moore 2009; Currah 2009; West 2013). In the first section, I follow the emergence of trans rights scholarship in conversation with a debate concerning the ideological and political premises of trans rights within the liberal legal tradition (Spade [2009] 2015; Currah, Juang & Minter 2006; Beger [2004] 2009; Aizura 2012b; 2017).

The second section departs from the framework of rights in order to explore gender classification as part of a series of modern techniques of state governance and, specifically, as part of civil registration and its crucial function in creating legible citizens (Spade 2008; Currah & Moore 2009; Moore & Currah 2015). This section connects and brings in dialogue critiques of gender classification, classic theories of categorisation, and governance modalities of the modern state as they converge on ambiguously sexed/gendered subjectivities (such as the medico-legal category of the "hermaphrodite," which historically has been exemplary of this process and its limitations).

Last, as gender classification in the law relies largely upon the commonsensical character of gender notions and taxonomies, historically the guide for this process has not been the letter of the law, which usually offers little or no definition of such categories, but its conceptualisation by the jurists applying the law. By this token, the issue of interpretation emerges in a spectacular way within histories of gender identity regulation (Whittle 2002). For this reason, the final sub-section of chapter three embarks on a critical examination of the power modalities that lay within

legal interpretation and its crucial role in enforcing the imperatives of a legal order (Cover 1986; Karavokyris 2013).

3.1. Trans Rights

Focusing on the legal aspects of trans experience in Greece, this study is informed by and is in conversation with critical approaches to trans rights and a rich legacy interrogating the law's gender imperatives (Currah 1997; Currah & Minter 2000; Whittle 2002; Sharpe 2002). This section provides a critical conceptualisation of trans rights within a broader debate about rights politics and their paradoxical imperatives (Brown 2002; Duggan 2003; Currah 2009; Beger [2004] 2009). The concepts and debates that will be outlined constitute an essential theoretical backdrop against which current legislation on gender identity will be analysed in Part C.

In most Euro-American legal orders, the engagement with gender variance followed, during most of the 20th century, the trends of sexology and psychology, leaving little room for the gender variant individual to emerge as a socio-political agent (Sharpe 2002). To that end, the strenuous task of shifting the paradigm was taken on by trans, queer and other critical scholars of legal and political sciences who introduced their own analyses on the existing legislation and judicial practices surrounding gender identity and the law (Currah 1997; Coombs 1998; Currah & Minter 2000; Beger 2000; Whittle 2002; Sharpe 2002). Writing within mainly Anglo-American queer and feminist theories and in close proximity with trans and queer political movements, such texts came to critically examine notions of sex and gender in an attempt to change the terms of the politico-legal debate around gender and sexual identities and practices (Valdes 1995; Greenberg 2000; Cruz 2002).

Since the 1990s, trans rights scholarship analysed exclusionary judicial practices and legislation in order to advocate for legal change and the conceptualisation of trans rights within frameworks of civil and human rights (Currah 1997; Whittle 2002; Currah, Juang & Minter 2006; Kendall 2006). Moreover, these approaches

challenged the de-humanising medico-legal concepts and the "(bio)logic" (in Sharpe's terms) of the law when faced with gender variance in general and with trans claims specifically (Whittle 2002; Sharpe 2002). Deploying an equality and rights-focused rhetoric, Shannon Price Minter, Stephen Whittle, Paisley Currah, Alex Sharpe and others contributed to create a body of Anglophone legal literature that adopted key-points of legal theories concerning the (inter)national protection of trans rights (Currah & Minter 2000; Whittle 2002; Sharpe 2002). Key publications for the emergence of this body of work were Stephen Whittle's "Respect and Equality: Transsexual and Transgender Rights" (2002) and the anthology "Transgender Rights" edited by Paisley Currah, Richard M. Juang and Shannon P. Minter. Common focus points were employment rights (Broadus 2006; Currah 2008b), the right to marriage (Fisher 2009; Sharpe 2002) and reproduction (Whittle 2002), protection against hate crimes, and inclusion in anti-discriminatory legislation (Currah & Minter 2000; Heber 2009).

Another recurrent issue in these texts is the amendment of identity documents and the state-imposed preconditions for it (Currah & Moore 2009). The necessity of such a possibility for people who underwent gender reassignment surgeries was the departing point of the line of thought that argued for the right to legal recognition of gender identity (Whittle 2002; Sharpe 2002). As the post-operative status proved to be a complicated and invasive precondition, which excluded numerous trans identities, it became apparent that the most appropriate theoretical device was the de-medicalisation of legal procedures surrounding the recognition of gender identity (Whittle & Turner 2007). It became commonplace among trans legal scholars to assume a theoretical position that would support detaching gender identity recognition from surgical body alterations. The relevant case law from certain national and international courts has been thoroughly analysed with regards to the criteria that have been considered substantive for defining gender identity before the law (Whittle 2002; Sharpe 2002; Herald 2009).

Underlining the incongruence of such criteria within and among different legal orders, many writers sought to explore the legal impasses stemming from denying

the realities of transgender identities across their various entanglements with the law (Greenberg 2000; Whittle and Turner 2007; Spade 2008; Meadow 2010; Cruz 2010). Accordingly, writers engaging with trans identities and the law have called for the legal recognition of trans genders through a reappraisal of the classification criteria/systems or by decreasing the official contexts in which gender classification is relevant and even by aspiring to uproot the authority of the state to impose official gender classifications (Sharpe 2002; Cooper & Renz 2016). Upholding the latter as a long-term political goal often coexists with claims to the former as a necessary means for survival and access to legal legibility (Currah 1997; 2009; 2017)

In parallel with the literature concentrating on legal reform through the granting of rights, a critical approach to the rhetoric of inclusionary arguments emerged. Having a legacy of legal reforms and assimilation politics to reflect upon, these approaches brought attention to the unproblematic embrace of the concept of rights within a structurally problematic system (Spade [2009] 2015; Aizura 2017). This debate intensified after the turn of the century when the legislation in many countries started to change in order to accommodate the needs of their transgender citizens. Moreover, it developed within a broader debate concerning minority claims for rights and recognition and their political implications (Stychin 1998; Brown 1995; Beger [2004] 2009).

An overall critical point that should be kept in mind is that the emergence of rights discourses within the Western tradition of liberal humanism translates into a grafting of racial, gender and class hierarchies within their core. Built within a specific politico-economical system, rights can operate in a way that naturalises the foundational powers of that system by masking them (Stychin 1998; Brown 1995; Beger [2004] 2009). Wendy Brown's (1995) critique in "States of Injury" has been crucial in underlining some of the insidious workings of rights within neoliberal capitalist states. Brown employs a post-Marxist feminist analysis drawing insights from Nietzsche and Foucault's writings to rework Marx's critique of rights. She presents a set of paradoxes inherent within rights, not arguing against rights themselves, but posing a series of questions such as:

> *When does identity articulated through rights become production and regulation of identity through law and bureaucracy? When does legal recognition become an instrument of subordination (Brown 1995: 99)?*
>
> *If rights thus reify the social power they are designed to protect against, what are the political implications of doing both? What happens when we understand individual rights as a form of protection against certain social powers of which the ostensibly protected individual is actually an effect? If, to paraphrase Marx, rights do not liberate us from relations of class, gender, sexuality, or race, but only from formal recognition of these elements as politically significant, thereby liberating them "to act after their own fashion," how does the project of political emancipation square with the project of transforming the conditions against which rights are sought as protection (Brown 1995: 115)?*

Exploring these and other important inquiries, Brown's analysis offers a valuable theoretical framework as it closely traces the ways in which rights discourses can work to de-politicise social power dynamics and transform collective political struggles into individual(ist) claims. As a result, the individual withdrawn from the collective, through the legal destigmatisation offered by formal equality loses the vocabulary "to describe the character of domination, violation, or exploitation" that remains at play and has originally generated the need for protection (Brown 1995: 126). To that end, although Brown does not argue against rights politics, she stresses that "rights must not be confused with equality nor legal recognition with emancipation" (Brown 1995: 133).

Furthermore, according to Brown, a position for or against rights themselves, as trans-historical concepts, cannot stand on its own. As rights are formed and claimed within given cultural and political contexts, they should be evaluated along an analysis of these conditions and their historical specificity (Brown 1995: 98).[40] This

[40] Within Brown's analysis of the paradoxes of rights, historical linearity and progressivist narratives also appear to have a key role in the creation and navigation of political impasse since "the language carrying the fatality of paradox occurs in the temporality of a progressive historiography" (Brown

is an insightful suggestion that, as will become apparent in Part C, I have followed with conviction in the present analysis. Nonetheless, as Brown's analysis proceeds in the book, she fails to commit to this call for specificity and delivers a unilateral critique that ignores "the most radically transformative and creative moments" of identity-based movements (Duggan 2003: 79). More importantly, as Lisa Duggan notes, the overall tone and structure of the text formulates a pedagogical modality that creates a sense of hierarchical opposition between Brown's (and others') critique and the political movements that use identity-based rights claims (Duggan 2003: 79-80). To that end, I agree with Duggan's implication that this analysis does not necessarily do justice to the critical discourses and practices that have flourished within movements claiming identity-based recognition.

Duggan is herself very critical of the efficacy of liberal reforms and formal equality to battle social injustices but advocates that extracting identity-based claims from political critique as *a priori* conservative and misguided is a position that follows the neoliberal doctrine of separation between politics, culture and economics (Duggan 2003).

> *In the real world, class and racial hierarchies, gender and sexual institutions, religious and ethnic boundaries are the channels through which money, political power, cultural resources, and social organisation flow (Duggan 2003: XIV).*

In this vein, a discourse of rights, which aspires to address the results of continuing inequalities with formal equality stripped from other redistributive claims, does indeed have its limitations. But similar limitations await a political discourse that engages with a critique of neoliberal regimes by dismissing "cultural and identity politics" overall (Duggan 2003: XX). Indeed, it seems more useful to write about such politics not in a modality that gives "advice" to political actors but one that

2002: 432). Indeed, due to the inherent futurity of rights politics and the dominance of this temporality of progress, critical engagement with rights brings an implicit emphasis on the articulation of time, historical narration and temporal political grammars (Binnie 2004; Woodcock [2011] 2016; Mizielińska [2011] 2016; Lalor 2015, 2019).

allows us to see and appreciate these "transformative and creative moments" (Duggan 2003: 79).

Within trans legal scholarship, Dean Spade ([2009] 2015) has engaged in a systematic critique of the paradox of rights. Writing in close connection with trans movements, Spade's analysis seeks to understand "what relationship trans politics has to 'individual rights – the framework most frequently articulated by the demands of many contemporary social movements -" and to investigate "other ways to conceive of law reform tactics in trans resistance that forgo the limitations of demands for individual rights" (Spade [2009] 2015: 7). Spade draws upon the work of Critical Race theorists to make a compelling argument about the complex workings of rights in perpetuating social inequalities within neoliberal states. There are many strengths in Spade's analysis. One is the firm grounding of trans politics within the broader context of contemporary American politics and its international appendages. Another is the core argument that many central themes in the claim for trans legal recognition and inclusion (such as marriage and adoption rights, formal equality etc.) do not address the needs of the most vulnerable trans populations. Moreover, according to Spade, marginalising factors such as poverty, racial criminalisation, lack of citizenship, immigration status, racial pay-gap, and a lack of access to social welfare and health care will not disappear through statements of formal equality (Spade [2009] 2015). Nonetheless, he also stresses the indispensability of legal claims:

> *Decentralising legal strategies, however, does not mean abandoning them altogether. Trans people's lives are heavily mediated by a variety of legal barriers that create dire conditions, especially those related to the use of gender classification in a range of state care-taking/control programs. Legal work of various kinds can be a part of the arsenal of tools available for addressing those conditions. Using legal reform requires a careful, reflective analysis in each instance of the potential impact on the survival of trans populations (Spade [2009] 2015: 88).*

To that end, he suggests that rights and legal reform claims should be employed tactically while retaining a "commitment to centre racial, economic, ability, and gender justice" (Spade [2009] 2015: 37).

More importantly, by using a Foucauldian framework to conceptualise power as operating through not only top-down enforcement but also through disciplinary norms and population-management, Spade's analysis brings into focus multiple areas of legal practice other than equality legislation (Spade [2009] 2015: 50). That is, state control apparatuses and administration mechanisms that mediate the distribution of life-resources become focal points within this line of thought. I consider very crucial the preoccupation with "what the law says about us" not only in legal areas explicitly engaged with issues of gender and sexual discrimination or violence (Spade [2009] 2015: 69; Kravaritou 1995). The gendering, racialisation and class stratification of a legal order does not rely solely on provisions that directly refer to such social hierarchies. Rather it relies upon provisions, underlying principles and structures that mobilise ideas about nationality, race, gender and sexuality to sustain or create "a general policy or program that may not explicitly target a group on its face, but that still accomplishes its racist/sexist purpose" (Spade [2009] 2015: 59). In this vein, such an understanding proves valuable, as is demonstrated in the next section of the chapter, to critically evaluate supposedly neutral state practices. Accordingly, it might not always be the recognition of a group's identity-based rights that operates to improve quality of life and access to resources but other distributive policies that relate to public medical insurance and education, housing, unemployment or migrant policies.

In a similar vein, Aren Aizura has problematised several aspects of trans formal recognition, with an emphasis on national and racial belonging. Departing from an Australian context, Aizura critiques the way in which attributes of national belonging and "'whiteness' as a form of cultural capital" weigh-in when discussing claims of gender-variant subjects (Aizura 2006: 289). Aizura's contribution is of unquestionable value in this historical moment as he proceeds to also analyse transgender rights in relation to immigration law and global regulation of migration,

tracing "the limits of neoliberal-rights frameworks that produce gender-variant people as subjects who must perfectly perform regulatory procedures to gain access to rights" (Aizura 2012b: 134). Aizura's imperative to interrogate the workings of trans rights discourses within and among modern states draws connections between claims for inclusion as well as recognition and the shifting forms of neoliberal politics, global political economy and "Western" nationalist imaginaries (Aizura 2012a; 2012b; 2013; 2017).

Both Spade and Aizura's insightful works are open to critical engagement to the point that, as Wendy Brown too, they create a framework within which the claim to recognition, to sheer legitimation of one's identity within society is inextricably linked with a queer political agenda. This can be an asphyxiating framework for a few reasons. Even though I appreciate the understanding of the claim to gender legal recognition as a claim of a political nature,[41] that is far from conflating gender-crossing identification with radical anti-capitalist politics or any politics for that matter. According to Aizura "trans politics in its more trenchant form wants abolition, an end to wealth, full communism, free water, food, air, and health care, reparations, and decolonization" (Aizura 2017: 610). In the same vein, Spade ([2009] 2015), throughout his analysis, constructs radical trans politics as opposed to liberal, middle-class, American trans politics which fully embrace and promote trans rights as the solution to transphobia. Nonetheless, although this set of politics does exist, Spade's framework does not seem to take into account trans politics that do not follow one of these two opposing lines or trans experiences that are not

[41] I refer to the understanding of such a process as political following Hale and Bettcher's work that have been mentioned in the previous part. Bettcher writes:
The point I'm pressing is that transsexual claims to belong to a sex do not appear to be metaphysically justified: they are claims that self-identities ought to be definitive in terms of the question of sex membership and gendered treatment. They are therefore political in nature (Bettcher 2014: 387).
By that, it is not suggested that gender identification is (or should be) equivalent to the intention of articulating a political stance. Nor that trans people are (or should be) necessarily conceptualising their identities through trans (or other) political frameworks. Nonetheless, as Hale puts it, the decision on how to view gender identification claims and whether to apply the dominant sex/gender discourse or consider other cultural discourses and practices is a political decision (Hale 1997a: 234).

articulated within the realm of (Anglo-American) trans politics (whether liberal or radical or anything else).

As Vivian Namaste has pointed out, trans experience does not necessarily align with LGBTI+ political frames and should not be forced into being articulated in such a strict political grammar (Namaste [2005] 2011). Moreover, Spade's analysis systematically underplays the symbolic and social value that connects to the granting of rights as well as the unpredictable moments of radical transformation that can erupt within the most "conservative" legal struggles. Overall, although Spade calls for specificity in the appraisal of rights politics, he follows Brown's tendency to criticise legal reform strategies and rights claims as if they were indeed trans-historical concepts. The strictness of their criticism fails to leave room for political modalities that may use these concepts in different ways or towards different directions, what Mizielińska calls "local flavours" of gender and sexuality politics that "once used and defined in the US, can have different meanings and produce (or not) different outcomes when transplanted elsewhere" (Mizielińska [2011] 2016: 89). In this fashion, we might miss the pleasure afforded by the encounter with hybrid political formations and bastard political claims that utilise elements from both or neither of these lines. I would not suggest that there are contexts within which rights politics can have a "happy ending" meaning that it can bring by itself social justice and uproot social inequalities. Nonetheless, I gravitate more towards an understanding of rights claims as open-ended instances of a political discourse and, for that matter, available to all sorts of uses and misuses with varying results and, more importantly, generative of unexpected socio-political currents on the way to reaching those results.[42]

[42] This debate has also been enriched by the insights of writers engaging with the language of gendered citizenship as a broader concept of relating to trans identities to state apparatuses (Hines 2007, 2009; Ochoa 2008; West 2013). Although I do not take this theoretical route in this section, in the spirit of recognising the importance of multiple frameworks' availability, it is useful to hint towards this set of valuable concepts. Specifically, critical writings on feminist, intimate and sexual citizenship (Evans 1993; Alexander 1994; Yuval-Davis 1997; Berlant 1997; Weeks 1998; Bell & Binnie 2000; Phelan 2001; Stychin 2003) have offered a set of theoretical tools in order to explore gendered notions of citizenship modalities. Complex conceptualisations, such as Aihwa Ong's (1999) "flexible citizenship" and Laurent Berlant's (1997) "diva citizenship," have claimed also instances of

Paisley Currah, writing from a background of political science, has created throughout his oeuvre a framework that navigates the paradoxical nature of trans rights and aligns with a lot of the critical points mentioned above without entirely dismissing rights claims and their potential in political praxis. The analytical plasticity of such an approach allow Currah's arguments to be more easily read and re-worked within different contexts even if they cannot be fully adaptable. They do not dismiss the political and legal struggles of trans movements but also do not necessarily conceptualise trans experiences with the terms of such movements

Following Namaste, Currah opposes the "widely held assumption in queer and trans studies" that trans individuals necessarily aspire to a kind of gender revolution and trans rights claims should be articulated in a way that destabilises gender norms (Currah 2017: 446-447). Instead, he argues for a politics of "gender pluralism", meaning that a variety of theories and perceptions about the meanings and workings of sex and gender can co-exist within a politico-legal framework like the one he suggests:

> *My argument, then, is that it is a mistake to assume the goals of defending gender as a coherent legal category and disestablishing it need be characterized by a zero-sum calculus. Instead, I think the solution lies in ensuring that the many, often conflicting, narratives of transgender identity that now appear in social and legal arenas continue to circulate and proliferate. Rather than trying to make sense of all these contradictory accounts of sex, gender, and the relationship between them, rather than trying to develop the "one perfect theory" to unify them within the larger*

radical political potential within various sets of practices in the realm of citizenship. In this vein, trans claims to citizenship have been theorised within a layered understanding of citizenship containing "both structural components (the law and other practices of citizenship, such as carrying a national ID card, getting a birth certificate, being recognised by the state, and voting) and affective components (feelings of belonging, participation, one's stance with respect to state recognition or lack thereof" (Ochoa 2008: 156). Writings such as Ochoa's (2008) work on Venezuelan "perverse citizenship", which draws on Latina notions of *ciudadania sexual,* or West's (2013) understanding of North American "transgender citizenship" within a framework of "performative repertoires of citizenship," work towards complicating the effects of trans claims to citizenship. That is, as with open-ended conceptualisations of rights they move beyond a rigid legal or political appraisal of such notions and towards synthetic approaches that are informed by "the ways in which citizenship is actually practised and lived in our movement through space and time" (West 2013: 17).

> *transgender rights imaginary, we should, as a movement, be celebrating the incoherencies between them even as we continue to pursue rights claims by invoking particular constructions of gender definition (Currah 2009: 256).*

More importantly, Currah does not see the project of legal reform and the project of challenging the state's power to institute gender classification/regulation as inherently incompatible (Currah 1997; 2009; 2017).

> *(…) I argue that the very different goals of working to dismantle gender as a coherent legal concept and working to expand gender to include trans people should not be seen as an either-or proposition. In fact, construing this opposition as a divide between gender theorists and transgender rights advocates (as a tradeoff between theoretical purity and political expediency) misrepresents the broad scope of the trans advocacy actually happening in the legal arena (Currah 2009: 245).*

Indeed, the body of work he has created points towards both projects engaging both with rights claims and policy-making (Currah 1997; Currah & Minter 2000; Currah & Spade 2007; Currah 2008a) as well as a critique of neoliberal state apparatuses, homonationalism, surveillance practices, securitisation and, of course, trans politics and activism (Currah 2008a; Currah & Mulqueen 2011; Currah 2013; 2014; 2017). More importantly, he manages to intertwine the two projects engaging in analyses that support rights claims *while* questioning the power structures that are the backdrop against which these claims are articulated (Currah 2009; Currah & Moore 2009; Moore & Currah 2015).[43]

[43] Although Currah does not claim a race-gender analogy in content, it can be suggested that he works with a kind of epistemological analogy. He draws from Critical Race theorists' positioning between traditional civil rights movements and Critical Legal Studies movement, arguing for a similar positioning of a transgender rights imaginary that neither uncritically embraces medicalised perceptions of trans identity nor abandons the claim to recognition in favour of a queer critique to gender normativity and liberal politics (Currah 1997; 2009). In order to create an understanding of how such an endeavour might look like, Currah (as Spade) turns to Critical Race theorists (Currah 1997; 2009). He quotes Kimberle Crenshaw's analysis of *Plessy v. Ferguson* (1986) that presents indeed a solid point of departure:

For example, Currah (2013) has problematised the perception of U.S. gay-friendly legislation as solely a victory, calling for an appraisal of such legal developments that would be informed by a wider critique. To that end, he employs the concepts of homonormativity (in relation to heteronormativity) and homonationalism to ultimately suggest that "the promise of equal sexual citizenship in this moment of extreme income inequality, of the erosion if not gradual dismantling of the social safety net, of the 'hyper-incarceration' of the prison industrial complex, and of record-high rates of deportation is not a cause for celebration" (Currah 2013: 3). Currah (2013), following Jasbir Puar's (2007; 2013) line of thought, relates the granting of LGBTI+ rights with the "war on terror," the dismantling of the welfare state and other mechanisms of mass precarisation of life. Yet he does so, not to dismiss the necessity of legal rights, but to ask whether the legal normalisation of sexual and gender identities "by an administration that assassinates individuals through 'targeted' extrajudicial killing" can be unproblematically celebrated as a victory (Currah 2013: 3). This point will be exemplified in chapter eight wherein the introduction of antiracist legislation by a regime heavily invested in racialised violence is discussed.

In addition to the above, throughout my analysis, I take into account Currah's argument that the legal management of gender by the state might take different, often contradicting, forms "which reflect different state projects - recognition, security, surveillance, distribution, reproduction" (Currah 2013: 5). An argument that contributes not only in demystifying the incoherencies in gender regulation between different state agents, but also in fathoming the different political projects, at state or suprastate level, that might be enabled by the adaptation of "progressive" legislation. This crucial point inspires and overarches my entire analysis. Bringing Currah's argument into the Greek context, I develop it by

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At issue were multiple dimensions of domination, including categorisation, the sign of race, and the subordination of those so labelled. There were at least two targets for Plessy to challenge: the construction of identity ("What is a Black?"), and the system of subordination based on that identity ("Can Blacks and Whites sit together on a train?"). Plessy actually made both arguments, one against the coherence of race as a category, the other against the subordination of those deemed to be Black (Crenshaw quoted in Currah 1997: 1382).

performing critical readings of different trans-related legislative pieces in relation to the historico-political context that produced them and, more importantly, of the specific work they perform. Specifically, in Part B of the thesis, gender identity regulation (under different frameworks that existed before the emergence of trans rights) is analysed in proximity to state processes that relate to standardisation, citizen legibility and normalisation. Accordingly, in Part C of the thesis, LGBT and especially trans-related legislation will be appraised not solely regarding its effectiveness and applicability but also in relation to different state projects or state-level goals achieved by its introduction.

In this section, I have reflected upon the formation of trans legal scholarship with a focus on rights, situating it within a broader debate on the role of rights within a neoliberal context. Overall, I have underlined the importance of an approach that acknowledges the significance and open-endedness of rights *while* engaging in a critique of their limitations, paradoxes and problematic underpinnings. Although this scholarship is crucial for legal studies of gender and sexuality, part of my research extends beyond areas that can be effectively discussed through the lens of (trans) rights, thus necessitating additional theoretical tools for theorising gender identity regulation. In this vein, the next section lays the theoretical ground for a critical interrogation of state-level registration and classification processes that will be particularly valuable in the second part of thesis, which is concerned with an era pre-dating the emergence of trans rights as a framework for theorising and conceptualising gender non-conforming experience in the law.

3.2. Civil Registration, Gender Classification and the Modern State

At the bottom of sex, there is truth (Foucault 1980: xi).

The present section explores additional theoretical tools that inform my research and analysis. Later in the text (in chapters five and six), I will trace the establishment of civil registration in Greece and analyse legal texts, which explore the juridical discourse that naturalised sex/gender classification in the Greek legal

order of the twentieth century. During that era, which predates trans rights theories, dominant discourses conceptualised gender non-conforming experience in the law through different frames such as the medico-legal category of hermaphroditism, which is of major historical importance for the present analysis due to its adaptation in Civil law. For this purpose, this section takes a closer look at such normalising frames and specifically at state-imposed processes of registration and classification. The gendered character of civil registration is problematised by engaging with critical accounts of civil registration as a process but also by making connections with critiques on (gender) classification systems and the classical theories of categorisation they adhere to. Such pertinent critiques of the naturalisation of gender categories, which is achieved through the operation of classificatory systems, inform my analysis throughout the parts to follow.

3.2.a. Civil Registration as a (Gendered) Mode of Modern State Governance

In this section of the chapter, I utilise the work of James C. Scott (1998) and others, as read by trans theorists, in order to understand the intricate connections between sex/gender categories, state power and modern techniques of governance. As it will be demonstrated, there are common (legal as well as ideological) threads connecting state registration processes, classical modes of (gender) categorisation, and "the very real, material effects" these concepts have on gender non-normative lives (Meadow 2010: 818).

Civil registration and especially the attributes needed for citizen legibility are underpinned with cultural norms and expectations of the socio-legal context they are situated in. For example, civil registration in the Greek legal order did not include racial classifications (as racial homogeneity was assumed but also devised by the modern Greek state) but has always been concerned with recording religious beliefs.[44] James C. Scott in his book "Seeing like a State" analyses a series of

[44] By the the first half of 20th century, the Greek State showed an unusually high level of ethnic and religious homogeneity that amounted to a percentage of at least 95% of the population being

standardisation processes concerning nature, the city and its citizens (Scott 1998). These processes were instrumental for the rise of the modern nation-state and the bureaucratic logics that might be considered as self-evident for contemporary administrative regimes. Scott (1998) examines the creation of surnames, the registration of vital records and other similar processes as instances of state-imposed simplifications. Such simplifications aim to erase the vast complexity of people's lives and classify them through abstraction and standardisation in order to create a schematic impression of a homogenous and legible population (Scott 1998: 81-82). State simplifications are the means by which "the chaotic, disorderly, constantly changing social reality" is reduced to a set of comprehensible schemata (Scott 1998: 82). This enables data aggregation, population monitoring and central administrative control, which are fundamental elements of the modern state's governance modes.

Moreover, these simplifications contribute to the creation of legible citizens that can be recognised and accounted for by the decision-making centre at any given moment (Scott 1998: 67; Caplan 2001). The project of creating a fully legible society is a *sine-qua-non* condition of modern statehood since successful governance on a large scale is considered analogous to a state's capability of knowing the citizens under its rule (Scott 1998: 67). This goal is achieved through the replacement of

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Christian Orthodox Greek (Rasku 2007: 43). To achieve that, religion was used as the only coherent criterion to classify a variety of ethnically and linguistically mixed populations and selectively contain some within state-borders. To that end, Christian Orthodoxy translated to Greek-ness by official standards (even if some of these populations did not speak Greek) and a project of nation-building proceeded along that axis. National homogeneity was constructed through forced population movement (such as population exchanges foreseen by the Lausanne Treaty following the defeat of the Greek army in Asia Minor in 1922) as well as assimilation pressure to the remaining ethnic and religious minorities (Rasku 2007: 43; Fokas 2008: 12; Roudometof 2011: 97). As Roudometof explains:

> *In other words, up until the 20th century Eastern Orthodox Christianity was used as the principal criterion for inclusion of a person in Greece's "imagined community". The cultural homogenization of modern Greece's population was predicated on using membership in Orthodox Christianity as a foundational category for setting the nation's cultural boundaries, and therefore for defining "insiders" and "outsiders" to the nation (Roudometof 2011: 97).*

Specifically in civil registration, Christian Orthodox baptism was recorded in a seperate registration act and until the reform of Family Law in 1983 it was the only route to legally obtain a name. Even to this day many registration offices conflate baptism and name-giving registration acts with very confusing results and of course a structural tendency to erase everything beyond the Christian Orthodox dogma (Tsapogas 2017).

local politics of recognition by a state-mediated system, which enables individual identification on a national level using standardised codes and procedures (Scott 1998: 78). This information and its organisation into demographic data through aggregation, increases national transparency, which is the level of supervision a state has over who (citizens, subjects) and what (land, resources) exists within its territory (Scott 1998: 78).

Scott takes us one step further by suggesting that the aim of state administration and its systematic methods of simplification is not to merely describe but to produce a population that possesses precisely the recorded attributes (Scott 1998: 81-82). Such a population "will be easiest to monitor, count, assess and manage" as it fits the closed systems that have been designed for this purpose (Scott 1998: 82). This "caricature of society" is imagined as the total sum of easily legible and perfectly classifiable individuals, which present a neat segmentation along the axes used by the administrative authorities to collect and process data (Scott 1998: 82). In this sense, the population that is mapped as bearing certain characteristics is simultaneously formed to have these characteristics since people's daily experience is understood through the categories used to describe it by state institutions (Scott 1998: 82-83).

Although there is a deterministic sense in this portrayal of populations, moving unavoidably into a bureaucratic chokehold, there always exist ruptures in state standardisation projects. Scott sees the attempt to create and manage a fully legible society as "a project that is never fully realized" (Scott 1998: 80). Whether due to technical difficulties and flaws or due to the subjects' resistance, this procedure can never be seamless and finalised. Even though statecraft techniques are becoming increasingly refined and catholic, it is still a somewhat utopian goal to aspire to the creation of a static and accurate mapping of the permanently shifting and riddled-with-complications social reality (Scott 1998: 82). Nonetheless, the stakes that such codifications of society can have in identity formation are high since "the categories used by state agents are not merely means to make their

environment legible; they are an authoritative tune to which most of the population must dance" (Scott 1998: 83).

Accordingly, the assumption that sex/gender is obvious since birth and immutable in time has been the basis of gender classification and its use to describe and identify citizens within civil registration processes (Spade 2008: 802). Trans literature has engaged with the way such processes work to normalise gender categories - historically upheld by medical sciences (and specifically sexology) - and their regulation by the state (Hale 1998). Specifically, civil registration and the creation of nation-wide vital records as a state-building process of modern western nation-states has been commented upon by trans theorists during the last decade (Spade 2008; Currah & Moore 2009; Meadow 2010; Moore & Currah 2015). Writing about birth certificates and other identification documents, these texts look to earlier critiques of identity formation, population management, data collection and state surveillance (Hacking 1986; Scott 1998; Bowker & Star 1999; Caplan & Torpey 2001).[45] Furthermore, they are significantly informed by Critical Race theories and the categorical work performed by "race" in terms of population monitoring and management (Freeman 1978; Crenshaw *et al* 1995).

Indeed, reading Scott's text through a critical trans lens allows us to grasp how gender classification within civil registration performs the work of reinforcing social norms about the character of sex/gender as a biological as well as a legal category (Spade 2008; Currah & Moore 2009; Moore & Currah 2015). In this procedure of constructed legibility, civil registration acts[46] and birth certificates have a central role as "breeder documents", that is, as documents which can verify individual identity when applying for other official documents in front of state authorities

[45] Bringing forth issues of trans identity and embodiment in modern western states governed by the logics of bureaucracy and security, this debate is unfolding within, or in proximity with, the emerging field of Feminist Surveillance Studies (Beauchamp 2009; Currah & Mulqueen 2011; Clarkson 2014; Mackenzie 2017). Trans literature coming from the US has brought securitisation in focus, as is expected, due to the increased surveillance and other security practices and legislation that followed 9/11 and the "war on terror" (Spade 2008; Beauchamp 2009; Currah & Mulqueen 2011).

[46] The birth/marriage/death register is referred to as "registration act" (*ληξιαρχική πράξη*) in the Greek legal order, hence this is the term that will be used throughout the text.

(Currah & Moore 2009: 126; Moore & Currah 2015: 63).[47] It is hence essential to include fixed pieces of data, that is, facts and attributes, which unlike other aspects of identity, are immutable (Currah & Moore 2009: 126; Moore & Currah 2015: 63).

Including sex (or, later, gender) among this information (birthplace, birthdate, parent's names etc.) reflects the social expectation about the stability of sexual identities (Spade 2008: 745; Moore & Currah 2015: 59). In the administrative imaginary, thus, civil registration merely depicts the reality of the body of the subject with its natural sex, its natural parents and all the other elements of coherence that frame the birth of a legible citizen (Moore & Currah 2015: 62-63). It is in this process of registering and classifying citizens that the inevitability of (legal and social) belonging in the used categories emerges. When these expectations are not met, in other words, when the classification is troubled, the subjects have to inhibit the space of taxonomic impossibility, thus living in what Whittle refers to as the legal "outer space" (Whittle 2002: 13).

To understand how such a normalising process functions it is essential not just to think critically about sex/gender as a category but firstly about category as a notion in itself. Categorisation[48] as a cognitive activity has been regarded as a natural process in Western thought for many years, thus evading critical approaches (Lakoff

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[47] According to Currah and Moore (2009), birth certificates have a dual function "as a documentary record of a static historical fact and as a primary document authenticating the identity of a person" (Currah & Moore 2009: 126). The first function concentrates in describing the birth history of the individual and in doing so, it fulfils the second function by creating a unique combination of data that makes them fully identifiable among the general population in past, present and future.

[48] The terms "categorisation" and "classification" are often perceived as synonymous even though in theory they are not. That said, because the two processes feed into each other and often understood as one, the use of both terms in my analysis might in some occasions overlap. Although I will not engage in-depth with the issue of their definition, below is a schematic distinction:
Categorization is the process of dividing the world into groups of entities whose members are in some way similar to each other. Recognition of resemblance across entities and the subsequent aggregation of like entities into categories lead the individual to discover order in a complex environment (Jacob 2004: 518).
Classification as process involves the orderly and systematic assignment of each entity to one and only one class within a system of mutually exclusive and nonoverlapping classes. This process is lawful and systematic: lawful because it is carried out in accordance with an established set of principles that governs the structure of classes and class relationships; and systematic because it mandates consistent application of these principles
within the framework of a prescribed ordering of reality (Jacob 2004: 522).

1987: 6). According to classical theories of categorisation, categories, whether used as scientific tools or just cognitive mechanisms, have clear and set boundaries. Hence, "things" are inevitably inside or outside of these boundaries, with their common properties constituting the content of the category in a seamless and indisputable manner (Lakoff 1987: 6; Taylor 2003 [1989]: 20-21, Jacob 2004: 520). These assumptions have been underpinning various disciplines as objective facts of sorts and have remained unexamined for centuries (Lakoff 1987: 6). In short, categorisation as a process was considered to spawn from the existing common properties of a category's members, regardless of the perception of the agent that serves as the observer and classifier. The classifying agent appeared to be merely recognising and describing naturally pre-existing groupings of things (Jacob 2004: 520).

An important shift in the ways of thinking about categories can be traced in the late works of Ludwig Wittgenstein (1953), whose theory challenged the idea that categories have set boundaries inscribed by the common properties of their members (Lakoff 1987: 16). Instead, by studying specific categories as examples, Wittgenstein concluded that their boundaries are unstable and can be expanded or restricted artificially when this serves a particular purpose (Taylor 2003 [1989]: 42-43). Another contribution to category theories by Wittgenstein was the suggestion that the inner structure of categories should not be imagined as uniform but rather as pertaining to members that can be considered more or less representative members, "good and bad examples of a category" (Lakoff 1987: 17). Therefore, members that hold a less central position in a category are more likely to find themselves outside the boundaries in the case of an artificial restriction of the category content. The end of the absolute reign of classical theories of categorisation marks an enormous paradigm shift, since changing "the concept of category itself is to change our understanding of the world" (Lakoff 1987: 9).[49]

[49] Similar critiques to the classical category theories have been articulated in various fields changing radically the course of these disciplines. For example, J. L. Austin's and Eleanor Rosch's work, which revolutionised the fields of Linguistic Philosophy and Cognitive Psychology accordingly (Lakoff 1987: 17-21, 39-55; Taylor 2003 [1989]: 45-48, 50-52).

These critiques saw categories, concepts and words as instances of creation rather than recognition or description of pro-existing realities, thus allowing for a problematisation of taken-for-granted categorisations and their effects (Jacob 2004: 520).

Such critical accounts prove crucial when turning to prominent categories, which are often naturalised and presented as internally coherent, historically stable and apolitical (Spade 2008: 745; Moore & Currah 2015: 63). Not surprisingly, trans scholars have underlined the necessity of critical interrogations of categorisation processes and the resulting classification systems in order to understand the social, ideological and legal anxieties that short-circuit in the presence of trans subjectivity (Hale 1998; Meadow 2010). Indeed, sex/gender classification has been used by modern states as an administrative process that is based on the supposedly natural, permanent and commonsensical character of sex/gender and, thus, is nothing more than a reflection of an evenly gendered world (Spade 2008: 746; Meadow 2010; Moore & Currah 2015:62- 63). To that end, trans theorists have used critical accounts of categorisation processes and classification systems[50] in order to problematise the use of sex (and, later, gender) as a legal category in registration, classification and management of populations by modern administration mechanisms (Spade 2008; Currah & Moore 2009; Meadow 2010; Moore & Currah 2015).

In this sense, trans writers underscore the importance of the gendered character of civil registration as a way not just to describe but to constitute modern citizens and

[50] The work of Geoffrey Bowker and Susan Leigh Star (1999) has proved useful as a basis to problematise gender classification through the critical approach of classification as a process (Spade 2008: 744-746; Meadow 2010). In their book Sorting Things Out, Bowker and Star, analyse the operation and consequences of classification claiming that classification systems tend to be considered neutral thus allowing for the invisibility of their normalising effects. Their work suggests that it is necessary to ethically evaluate classification systems, which, while appearing neutral, dangerously impose their underlying ideological norms as a pro-existing reality, untainted by moral and political decisions (Bowker and Star 1999: 195-225). Bowker and Star use the term "convergence" to conceptualise the mutual constitution of classification systems and the things classified (Bowker and Star 1999: 49). This argument echoes Scott's suggestion of populations being produced rather than described through their official registration and standardisation by state agents (Scott 1998: 82).

they include official gender classification among other classification systems that represent themselves as expressing “basic truths about distinctions existing in the world” (Spade 2008: 745). In this framework, Moore and Currah (2015), writing about birth certificates that are produced through this process, point out that regardless of their veneer of objectivity as factual records, birth certificates are “inscribed with cultural norms and values exercised through legally certified social relations” (Moore & Currah 2015: 62). Similarly, Meadow (2010) suggests that the management of claims articulated by trans people “expose(s) the ways larger social institutions impose expectations of gender coherence on individuals, providing both ideological and material disincentives for its disarray” (Meadow 2010: 819).

This official documentation of legible citizens and the recognition it entails is instrumental in the distribution of rights and resources (Currah & Moore 2009: 116; Spade 2008; Meadow 2010). What is drawn here is a straight line connecting the gendered, racialised and otherwise classified body and its citizenship status with state authority, social norms, and life-resources (Spade 2008). At the same time, the granting or deprivation of rights and resources that is connected to various legal categories appears as a politically and ethically neutral choice, or even as not a choice but an effect of the natural order of things. It is, thus, crucial to consider the structural violence and the lack of life chances that await when the complexity of lived experience clashes with the official representation of subjects as neatly classified citizens.

What has been established in this section is that it is precisely civil registration and the documentation it produces that create the crucial link between sexual anatomy, legal subjectivity and the state (Currah & Moore 2009: 113-114). That way, a specific body is tied to a gender identity, a legal subject is tied to its gendered bureaucratic representation and all this, hopefully, remains intact throughout the citizen’s physical life, thus, not disturbing their comprehensible administrative depiction. When this coherence and stability prove mistakenly assumed, the function of civil registration acts and birth certificates is fundamentally challenged creating legal anxiety. Indeed, those “clear” boundaries have been often blurred by

liminal subjects who could not adequately and exclusively fit into one of the used categories (Whittle 2002). The next section explores some instrumental categories that have been used in the face of this instability to maintain sexual order in the law.

3.2.b. Sexology, Law and the Categories in-between Categories

During the twentieth century, assigning sex to individuals that were troubling sexual classification systems in any way, was largely a task for "men of medical sciences" (Dreger 1998; Whittle & Turner 2007: 3.12). Legal scientists, in their turn, were trusted to incorporate the increasingly complex sexological and psychiatric taxonomies in the legal imaginary. Around the cases of such individuals, medical and legal truisms about the (im)possibilities of the sexes were articulated, debated, (dis)proved and materialised. The "essence and signifiers of femalehood and malehood" had to be analysed and agreed upon within and across scientific fields through the regulation of ambiguously sexed bodies (Dreger 1998: 12).

Specifically, the "hermaphrodite" as a historical category is of great importance for any legal study interrogating sexual and gender classifications in the law (Whittle & Turner 2007). Across different periods and states, a plethora of anatomies, sexual expressions and practices have been the subject of taxonomic ordering under the broadly perceived phenomenon of hermaphroditism (Mak 2012: 6-7; Tzanaki 2018).[51] In this sense, the hermaphrodite as a category is necessary to tell the story of a variety of historical subjects scrutinised by the medico-legal professionals in a quest to "keep people straight" (Dreger 1998: 8). Although the history of the legal status of hermaphrodites up to the eighteenth century is widely disputed,[52] it is

[51] For further discussion on different aspects of what was historically defined as hermaphroditism see Foucault 1980; Epstein 1990; Reis 1992; Dreger 1998; Foucault [1999] 2003; Whittle & Turner 2007; Cleminson & Vázquez García 2009; Mak 2012; Kritsotaki 2013; Tzanaki 2018.

[52] According to Foucault's genealogy of hermaphroditism, before the seventeenth century, hermaphrodites were persecuted in European legal orders as their sheer existence traversed the natural and legal line distinguishing the two sexes (Foucault [1999] 2003: 66-67). From the seventeenth century, although these persecutions appear to cease, the disruption caused to the natural and legal order by the idea of the mixture of sexes is thought to demarcate hermaphrodites as monsters within the juridico-medical discourse (Foucault [1999] 2003: 68-72). This genealogy,

rather commonly accepted that, during the eighteenth and by the beginning of the nineteenth century, a fundamental alteration in the medico-legal view of hermaphroditism occurred as is described below (Foucault 1980).

Within Roman law tradition, hermaphrodites were thought to be members of both sexes in the natural order but were obliged to comply with the sex that was considered to prevail anatomically in order "to participate in the civil life" (Cleminson & Vázquez García 2009: 56). Roman legal texts that engage with the issue (such as the *Digest* and the *Lex Repentudarum*) reserved the assignment of the "predominant sex" to midwives and doctors and, only if they could not reach a decision beyond doubt, the choice was made by the parents (Cleminson & Vázquez García 2009: 57). In that case, after reaching marriage age, the individuals were allowed to make their own decision, which was never to be altered again under the threat of punishment. This very exceptional procedure, which adopted the adult individual's choice was followed in the extremely rare cases of "perfect hermaphrodites" (Cleminson & Vázquez García 2009: 57).[53] Overall, following this canon, during the seventeenth century, the term hermaphrodite as a medical category was used to imply the "mixture of the two sexes in a single body," one of

although widely reproduced, has been criticised as not entirely accurate (Rolker 2014). As noted by Alex Sharpe (2010), the genealogy mapped out by Foucault, even if found to be accurate for the French legal order, is not necessarily identical in all European national orders, which might diverge in the ways they have historically defined and regulated some of these concepts (Sharpe 2010: 54). Similarly, Alice Dreger's periodisation of the medical discourse on hermaphroditism has been considered as being "hermetic" and over-schematising by scholars writing within different national paradigms (Cleminson & Vázquez García 2009: 79). According to Cristof Rolker (2014), any linear narrative might fail to accurately depict the interrelation between pre-modern discourses on hermaphrodites. Nonetheless, he asserts that the widely accepted narrative of hermaphrodites being persecuted before the seventeenth century is not backed up by the existing historical documents (Rolker 2014: 186-187). Through a re-reading of the two cases, which have been used to substantiate this claim, as well medieval canon law and Roman law, he calls into question both the idea of such a persecution and the conceptualisation of hermaphrodites as monsters in the legal culture of the same period (Rolker 2014).

[53] In that sense, Roman law included elements of choice but, as Cleminson and Vázquez García point out, this fact is occasionally misread to mean that hermaphrodites within the Roman law system lived "in some kind of Arcadia whereby they could elect the sex of their choice" (Cleminson & Vázquez García 2009: 56). In reality the procedure although sometimes unclear, followed the dogma of the "predominant sex" -as in common law systems as well (Greenberg 1999: 277; Whittle & Turner 2007: 3.8)- and, as already established, only in highly exceptional conditions included the possibility of choice.

which (the "predominant") would be considered to override the other and, thus, would serve as the official sex of the person (Foucault 1980: viii; Foucault 2003: 68).

Notwithstanding, throughout the eighteenth century, the dominant medical paradigm disclaimed the notion of two sexes co-existing in a single body. It was considered crucial to establish that every body, every person, has one "true" sex, which might, in some cases, be concealed and misread due to anatomical flaws pointing to the opposite sex (Foucault 1980). Such an important shift changed the definition of hermaphroditism and, thus, the definition of sex that governed the regulation and management of doubtful sex. Consequently, both the medical and the legal treatment of hermaphrodites boiled down to the decision of the right theories and criteria in order to discover the "true" sex of ambiguously sexed individuals (Foucault 1980: viii).[54]

In legal terms, this new thesis translated into a shift in the juridical process of assigning sex. Under the "true sex" paradigm, which does not recognise the mixture of sexes, the law "had to establish or re-establish the legitimacy of a sexual constitution that had not been sufficiently well recognized" (Foucault 1980: ix). Henceforth, the sex of a body is always only one in number and the task of the expert becomes to discover it. The "predominant sex" of the hermaphrodite shifted from being one of the two sexes co-existing in the same body to being the "true sex" that was being concealed by anatomical anomalies.

The twentieth century, within which the texts that will be analysed are mostly situated, brought major changes concerning the management of doubtful sex on many levels. It is in this period that cross-gender categories, under various classifications, become objects of sexological study as well as other medical

[54] In this sense, the hermaphrodite not only escaped the realm of teratology (if we accept Foucault's genealogy of hermaphroditism), but also ceased to be considered *real* in the scientific discourse (Cleminson & Vázquez García 2009: 8). The existence of "true hermaphrodites" was limited to very specific cases where both ovarian and testicular tissue was present and by the dawn of the nineteenth century, almost all hermaphrodites were considered "pseudo-hermaphrodites" (Foucault 1980: ix; Cleminson & Vázquez García 2009: 85-86, 109). As Dreger notes, the constant revision of the medical criteria for "true hermaphrodites" was making it increasingly harder for anyone to be classified as such (Dreger 1998:139).

intervention (Prosser 1998b; Prosser & Storr 1998). One of the most prominent tools of sexology was the notion of "sexual inversion," which was established in the nineteenth century but was maintained and evolved in the early twentieth century (Prosser 1998b). Foucault's work traced the emergence of the homosexual as a category in the studies of sexologists on sexual inversion and similar concepts during this period (Foucault 1978). Nonetheless, as Jay Prosser (1998b) points out, this assertion and its wide influence has led to a historical reading of sexual inversion *as* homosexuality (Prosser 1998b). Such an understanding stems from the prioritisation of homosexual desire among the variety of sexual and gender "anomalies" that constituted sexual inversion.

Nonetheless, reading the works of famous sexologists with an emphasis on the described experiences and not their theoretical classification by the authors reveals an apparent emphasis on gender-crossing narratives (Prosser 1998b). These narratives were retrospectively interpreted by theorists as gender-crossing not for the sake of gender identification but rather, as a vehicle for homosexual desire since the desire for women was acceptable solely for men and *vice versa* (Prosser 1998b: 117). In that sense, Prosser suggests that:

> *(…) inversion's cross-gendered paradigms have been considered the "discursive frame" for homosexuality (…). Transgender has thus been configured – with the emphasis on figure - as homosexuality's fictional construct: not referential of actual transgendered subjects but metaphorical of homosexuals falsely transgendered (Prosser 1998b: 116-117).*

What is suggested here by Prosser is not a *dehistorisation* of the sexological work on "sexual inversion" but a *rehistorisation* that takes into account not only the gender categories that have claimed their existence and history in the last decades, but also the fact that we can (and hopefully have) moved beyond a reading of sexology which collapses "sexual inversion" into homosexuality (Prosser 1998b: 117, 127). Indeed, in the most influential works of sexology, the gender aspect of

"inversion" cannot be ignored as "the congenital invert was always seen as a hermaphrodite of a sort, even if not an anatomically one" (Dreger 1998: 135).

In 1910, Magnus Hirschfeld publishes his study *Transvestites*, the subject of which proved "pivotal to the discursive emergence of the transsexual" (Prosser 1998b: 121). The term "transsexual" itself appeared in the 1920s and was established by the late 1940s through the work of sexologists, the most prominent of which is considered to be Harry Benjamin (Prosser 1998b: 123). This work relied upon decades of studying gender-crossing identification and practices (under the purview of sexual inversion, moral/psychic hermaphroditism/bisexuality etc.) and drew from earlier literature such as the writings of Karl Heinrich Ulrichs, Richard von Krafft-Ebing and Havelock Ellis (Prosser 1998b: 119-123).

These new taxonomies, the discovery of "male and female hormones" and the new medical technologies allowing for changes in the sexual embodiment[55] complicated even further the task of jurists to interpret sexual characteristics and uphold existing classifications in the law. If one adds to the evolving parameters of sexual anatomical differentiation, sexual preferences, the ability for heterosexual intercourse, the ability to procreate etc. it becomes evident that, during the twentieth century, the interpretation of doubtful sex within the courtrooms became a complex task - a task that, at every step, posed a challenge to strict binary sex/gender classifications along anatomical axes and social norms. In spite of the constantly manifesting inability of the official sexual classification to contain reality, as Foucault noted, throughout the twentieth century "the idea that one must indeed finally have a true sex is far from being dispelled" (Foucault 1980: x). Indeed,

[55] While for trans individuals the advances of surgical technologies were crucial in bringing new possibilities of gender embodiment, for the upcoming generations of intersex people they established a new terrain of medical disciplinary intervention. The introduction of genital "corrective" surgeries in new-borns and toddlers has made intersex individuals vulnerable to a level of medical normalisation, which is structurally invasive and violent (Kessler 1998; Dreger 1998: 119, 180; Preves 2003: 50, Mak 2012: 171). Additionally the anatomical "correction" on an early age renders many intersex people invisible as this gendered past is kept secret often even from them.

this notion of the *truth*, which lies within sex, is still very apparent in the debates around trans and intersex identities, especially within the legal regime.[56]

As it has been established, a large part of the normative function of sex/gender classification in the law relies on its commonsensical – even though constantly challenged - character. This will become particularly apparent in Part B, wherein overlapping classifications and categorical conflations are studied. Such messiness hints towards the inadequacy of oversimplifying schemata but, nonetheless, did not affect the dominant conviction regarding such categories' naturalness and coherency. The particular meaning of supposedly self-evident concepts (such as woman, man, sex/gender etc.) has been historically defined not by the legislator but by those interpreting the law in every era. This begs the question of how interpretation functions in such a context and what kind of power lays within it. The next section briefly introduces a critical account of interpretation as a crucial power modality not only over the text of the law but also over those who are governed by the law.

3.2.c. Interpretation as an Instance of Power

> *Legal interpretation takes place in a field of pain and death. This is true in several senses. Legal interpretive acts signal and occasion the imposition of violence upon others (…) Interpretations in law also constitute justifications for violence which has already occurred, or which is about to occur. When interpreters have finished their work, they frequently leave behind victims whose lives have been torn apart by these organized, social practices of violence. Neither legal interpretation nor the violence it occasions may be properly understood apart from one another (Cover 1986: 1601).*

Having explored the workings of sex/gender categories in civil registration and legal classification overall, I now procede to problematise the process by which individuals are subsumed in these categories. That is, the process by which jurists

[56] Especially in discussions that use the frame of fraud or the moral (that occasionally becomes legal) obligation of disclosure of gender identity history (Sharpe 2018).

interpret the legal categories and their, usually unwritten, criteria in order to decide and impose the position of ambiguously sexed/gendered individuals within a strict gender order.

The concept of interpretation is embedded in legal thought as a necessary and continuous project in any legal system. Throughout different periods and schools of thought there have been various approaches to interpretation and its importance for the force of law. Representatives of (classical) legal positivism have firmly supported the existence of a pre-interpretative meaning of law which can be preserved through an accurate (preferably literal) interpretation of legal texts (Karavokyris 2013: 27, 44). By applying the "right" interpretative method, an attempt is made to eliminate linguistic and other ambiguities in search for the *true pre-interpretative meaning* of the law, thus, annihilating the distance between the application of the legal text and the will of its author (Karavokyris 2013: 27-28). These - and various other - different approaches aim to work against any interpretative arbitrariness, which cannot be traced, through one of the commonly accepted legal interpretation methods (literal, teleological, authoritative etc.), back to the will of the legislator and the authority they have over the text of the law.

As poststructuralist theories of textual interpretation emerged in the fields of Literature and Language Theory, critical strands of legal scholarship attempted to incorporate principles of modern Pragmatics in legal thought challenging the exegetical and formalist views of former approaches to legal language and interpretation (Hutton 2014: 37).[57] Questioning the concept of legal language as the expression of an authoritative agent who produces static, intentional and unilateral meaning, allows for a fundamentally different view of the law overall. According to Peter Goodrich, "if linguistics is to be of value to legal studies it will be by virtue of an endeavour to come to terms with the study of legal texts as

[57] One of the most prominent of such connections is exploring the application of Searle and Austin's speech act theory (especially the concept of performativity) in legal theory and practise (Hancher 1980; Tiersma 1986; Kurzon 1986; Maley 1994; Schane 2006; Solan *et al*. 2015). Although the area of legal linguistics will not be analysed in depth here, it set the ground for a radical shift in legal interpretation theories.

communicational processes" (Goodrich 1987: 7). Indeed, the traditional schema in which the power of law is structured upon on the monologic, top to bottom, direction of the legal utterance is shaken to the core once placed in a linguistic analytical frame that regards legal discourse as a communicative practise (Karavokyris 2013: 53, Panaretou 2009: 61-63).

Perceiving legal texts as non-monologic utterances shifts structurally the focus and role of legal interpretation. It follows that there is not one but two constitutive moments of the law: its composition by the author (legislator) and its reading by the interpreter (jurist). Influenced by post-modern approaches to literature and language, critical approaches to legal interpretation questioned the relationship between the author and the legal text suggesting that the interpreters play a different role than merely discovering the *intentional, pre-interpretational* meaning of the law (Karavokyris 2013: 53; Hutton 2014: 37). Holding the intention or the will of the legislator as a sort of *true meaning* of the legal text reduces the understanding of such a text to a matter of subjectivity, which is a rather limited way of viewing any utterance (Goodrich 1987: 54).

If instability is a fundamental feature of language, and thus law, then "it is the interpreters who give meaning to words" (Hutton 2014:37). The detachment between author and text and the liberation of the interpreter from the strict textual ties should not be viewed as a suggested plunge into relativism on the part of those who endorse such an analysis. Other than the fact that there are specific – strategic, historical, political - confines that draw the limits within which different interpretative outcomes can been seen as legitimate, it is not the aim of such an approach to prove the voidness of legal text (Karavokyris 2013: 55). On the contrary, what is suggested is the density of legal discourse, this time not as a closed objective system but as a social and political discourse. Placing the search for legal meaning in a Foucauldian frame of power, Goodrich marks the recognition of social ideologies within legal discourse as a crucial point for such a critical reading of legal texts (Goodrich 1987: 78-79). What this analysis suggests is that claiming the autonomy of the law as text denies the fact that "political, moral or other

references are considerations that play any role within semantics of legal validity" (Goodrich 1987: 81).

Such an understanding re-establishes the relationship between author (legislator) and reader (interpreter) in a manner that enhances the power that lays within interpretation. Especially in the interpretation of notions that are *too obvious* to require an explicit definition in the law – which is often the case for terms such as "man", "woman", "gender" etc.- these underlying ideological elements come to light. For example, the lack of explicit gender definition in a legal order does not imply a lack of gendered norm[58] that legitimises - and is legitimised by - certain kinds of interpretation. When it comes to being subsumed in gender categories in the law, Whittle (2002) notes that "the transsexual faces the problem of interpretation" as "they prove a problem to law, in its role as the omniscient protector of truth" (Whittle 2002: 41). Throughout the years, the constant re-reading of gender within legal texts is part of a never-ending process of negotiating current scientific principles, social morals and their legal codification. As Whittle suggests:

> *If a post-structuralist framework is accepted, legal knowledge is constructed through text; it is secured in language that continually re-examines it, alters it and then recreates it – like a game of Chinese whispers. […] To apply the law means to place interpretations on the text of others, to expound what is within texts and to overlay it into a new context (Whittle 2002: 41).*

Hence, the "givenness" of the meaning of gender in each historical moment reveals not only the inherent connection of law and norm but also power *as the authority* to interpret what is self-evident in the law (Karavokyris 2013: 26). In this light, interpretation cannot be disconnected from the power, or the violence as Cover

[58] Michel Foucault in one his 1977-78 lectures at the College de France mentions the relationship between norm and the law tracing it back to Kelsenian thought (Foucault 2003: 55). Departing from the position that "every system of law is related to a system of norms," Foucault argues that the law refers to a set of norms, to which it offers a kind of codification (Foucault 2003: 55).

(1986) suggests, that organises and determines meaning (and non-meaning) within a discourse, by embodying political and social ideologies (Goodrich 1987: 78-79). Through this line of arguments, interpretation has been established as a central and insidious function that I will, thus, attempt to tease out and bring to the forefront in my analysis of legal texts.

Closing this chapter, I have offered a nexus of legal critiques and concepts that frame my research and analysis on gender identity and its management within the Greek legal order. Having mapped out in detail the disciplinary and theoretical environment of my research in the last two chapters, the remaining chapter of Part A is intended to present the broader epistemological premises of my research as well as its exact methodological route and the rationale behind it.

Chapter 4. Methodology

This chapter presents the way in which this research was conducted and the rationale behind it that has been significantly influenced by the debates, explored in chapter two, concerning the utilisation of trans identities in knowledge production. Drawing from feminist debates on positionality and objectivity in knowledge production, this chapter reflects on issues of (my) positionality in doing trans research from a specific position and within a specific context, while trying to follow an ethical method and an accountable epistemology (Haraway 1998; Stryker 2006; Haritaworn 2007). Moreover, it lays out in detail the different sources used in the text, their approach in terms of research and analysis, as well as the reasons behind these choices.

In specific, echoing the call for the composition of critical historiographies, in Part B I use archival research material (from the Athens Bar Association Library and the digital archive of the Hellenic Police Periodicals) in order to compose an alternative genealogy of the legal frames concerning gender variance in the previous century. Part C is based on contemporary legal sources (legislation, litigation, parliamentary minutes, etc.) and other texts (press releases, media article,s etc.) which sketch out the socio-political contexts within which the former are situated. Moreover, Part C is oriented not solely based on the dominant legal discourses but also based on everyday aspects of trans legal realities, thus, using a set of semi-structured interviews. These in-depth conversations enter the text as a parallel theoretical or analytical lens rather than as a body of pre-theoretical data. They reveal the contradicting (practical, political and affective) effects of the legal concepts studied, the shortcomings of the theoretical understandings of trans legal issues, as well as the alternative legal realities that unfold within or without formal legal frameworks.

4.1. Accountable Epistemologies: Positionality in Knowledge Production

Epistemological questions of how knowledge is produced and what objectivity and partiality have meant historically when doing research and representing the world lie at the heart of feminist debates that have crucially influenced the development of trans scholarship (Tisdell 2012; Haraway 1998; Stryker 2006; Haritaworn 2007). This section briefly touches upon issues of reflexivity and positionality in research as they have emerged within feminist discussions about processes of knowledge production and the role of power in building epistemological paradigms.

Framing knowledge production as a site contested with gender hierarchies has been one the great legacies of feminist researchers who, struggling with the positivist understanding of objectivity, embraced the political nature of doing research as well as its emancipatory potential (Tisdell 2012). Other than challenging the possibility (and even desirability) of "unbiased" research, such critical strands have interrogated the role of experience in constructing knowledge, as well as issues of the representation and hierarchy within scientific paradigms (Spivak 1988; Scott 1991; Alcoff 1991; Phoenix 1994). During the 1980s, feminist standpoint theories became part of the Western objectivity debate suggesting that knowledge-construction through politicised research had a better chance of giving meaningful accounts of the world than what is supposed to be "unbiased" research (Tisdell 2012).

This claim, which re-articulates a similar Marxist argument, theorised the desire for transformative, emancipatory and accountable scientific knowledge that utilises the expertise offered by standpoints of the subjugated instead of abstract, supposedly universal truths articulated from nowhere specific (Haraway 1988). The work of Sandra Harding and others has been seminal in the development of feminist standpoint theories as such (Hartsock 1983; Harding 1986, 1991). Moreover, as the standing epistemic paradigm has been as racist as it has been sexist, feminist standpoint epistemologies were greatly informed by the works of feminists of colour and their complex analyses regarding understanding and representing the

world from different positions involving overlapping systemic oppressions (hooks 1984; Collins 1986, 1991).

Through these epistemological debates, the concept of positionality has emerged as a tool to underline the way a researcher's speaking position "(in terms of race, nationality, age, gender, social and economic status, sexuality) may influence the 'data' collected and thus the information that becomes coded as 'knowledge'" (Madge 1993: 293). In this vein, Donna Haraway (1988), furthering Harding's arguments, developed a frame for "a usable, but not innocent, doctrine of objectivity" (Haraway 1988: 582). Haraway's analysis calls for the production of "situated knowledges" in a feminist version of science that counters universalist reductionism with "partial perspective" and "limited location" (Haraway 1988: 583). Using a set of visual metaphors, Haraway critiques the "god trick" performed by traditional scientific methods in Western sciences wherein the researcher/scientist claims to be nowhere in specific (unmarked, disembodied, unbiased) but, at the same, to be able to see and comprehend all, thus producing objective knowledge (Haraway 1988). As Haraway rightfully points out, "knowledge from the point of view of the unmarked is truly fantastic, distorted, and irrational" (Haraway 1988: 587). On the contrary, in a feminist version of objectivity, better accounts of the world can be produced through "elaborate specificity and difference and the loving care people might take to learn how to see faithfully from another's point of view" (Haraway 1988: 583).

The call for situatedness, partiality and careful positioning is not a call for relativism (named as another "god trick" by Haraway) but a call for "embodied knowledges and an argument against various forms of unlocatable, and so irresponsible, knowledge claims" (Haraway 1988: 583). Such a feminist epistemology makes visible end employs a fundamental interconnection between methodology, research ethics and reflexivity within knowledge production. In this vein, the effort to take into account the position of researcher and researched within various overlapping power structures and the way it affects their interaction and produced narratives has become an integral part of critical self-reflection in research, not only

within feminist but broader critical settings (Rose 1997; Robina 2001; Dowling 2005; Kobayashi 2003; Nash 2010). As discussed in chapter two, such issues have been central in the formulation and development of critical epistemologies within trans studies and are, thus, taken into account in the epistemological framework of the present research, as will become evident in the next section.

Overall, the emergence of members of marginalised groups (in gendered, racial and other terms) as knowing subjects placed questions of politics and ethics at the centre of discussions about scientific method and dictated the reworking of the dominant scientific paradigm from its foundation. That is, it demanded a form of scientific method which holds that, although the position of the subjugated might not be an "innocent" position (in the sense of producing *a priori* unproblematic accounts), nonetheless, it provides a better chance of constructing knowledge that is more meaningful, accountable and adequate to respond to our worlds' multiplicity (Haraway 1988: 584). Nonetheless, even with the legacy of decades long discussions, speaking for/about others in theory and politics and positioning one's self during that process has proved an ethically and politically slippery terrain that demands constant renegotiation (Alcoff 1991; Rose 1997). As writers from different locations within modern gendered, racialised and otherwise stratified society have engaged in these debates, they have worked towards enriching them with insights from different positions within the broad spectrum of who might be considered to be "the subjugated" (Haraway 1988). In this vein, the next section connects these discussions not only with the epistemological imperatives of trans studies as a field but also with the epistemological and ethical considerations emerging in the present research.

4.2. Doing Trans Research from Somewhere Specific

With the debates discussed above in mind, I now turn to a consideration of the way they converse with knowledge production about trans issues in general but also with the present research in particular.

As analysed in chapter two, concerns about knowledge production and power relations within trans-related research have been brought to the forefront by trans scholars and activists who articulated a sharp critique as regards the transdisciplinary exploitation of trans experience by non-trans writers (Prosser 1998a; Namaste [2005] 2011; Serano 2007; Haritaworn 2007). Arguably, it became evident that trans-related scholarship was, more often than not, produced by writers and institutions that bore no connection to trans communities and individuals, while the analyses of trans writers themselves were dismissed as "merely" personal accounts (Stryker 2008). Even within feminist, gay/lesbian and queer scholarship, trans experience and subjectivity was often instrumentalised by non-trans writers who performed abstract readings of trans lives without adequate reflection on the power-balances at play and the different positions of individuals within them (Prosser 1998a).

For example, for Prosser and others, the analysis and evaluation of the film "Paris is Burning" by Judith Butler (among other queer theorists) raised specific methodological questions that touch upon the issues discussed above (Prosser 1998, Haritaworn 2007). Prosser echoes bell hook's critique about the masking of the filmaker's (white cis lesbian) gaze and the issues of power and representation that stem from it (hooks 1992; Prosser 1998). "Livingston," writes Prosser, "remains omnipresent and unsituated" (Prosser 1998: 51). Similarly failing "to position herself and the filmmaker to privileges around whiteness, class, and non-transness," Butler proceeded to a reading of the film that was open to criticism for a reductionist representation of working-class trans women of color and for disregarding the particularities of the articulations of their (racial, gendered, sexual) identity (Haritaworn 2007: 2.2). According to Haritaworn, "it was her [Butler's] implicit acceptance of the film as an ethnography which presented the biggest cause of concern for her critics" (Haritaworn 2007: 2.2). That is, the issue was framed greatly as a methodological issue and more specifically one of positionality concerning both the making of the film by Livingston and its reading by queer theorists as an "objective description of minoritised lives" (Haritaworn 2007: 2.3).

Atuned with such critiques, trans studies as an emerging field was largely organised around the need to generate critical discourses through the mobilisation of "(de)subjugated knowledges" (Stryker 2006: 12-13).[59] As Stryker suggests, transgender studies scholarship relies on the embodied knowledge of transness and the intimate understanding of "gendered subjectivity and sexed embodiment" for the articulation of critical commentary (Stryker 2006: 13; Stryker 2008). Accordingly, as trans-related research has been moving increasingly away from the hands of self-acclaimed "specialists", Currah and Spade note that, "unlike the traditional research paradigm, which has been defined by the distance between the researcher and his or her subjects, today's new crop of promising transgender researchers are firmly located within the populations they study – either as members or as allies with long histories of involvement" (Currah & Spade 2007: 3).[60]

Indeed, in the present research, my own personal attachment to trans individuals and communities has been central from the very beginning. Firstly, the personal involvement with trans individuals and the common life we have shared was the initiative to think and write about trans issues even before this project (Kasapidou 2015, 2017). Although not trans-identified myself, I did not come into contact with trans lives *as* a researcher. It was rather the other way around. Living with those close to me in transition drove me to research and write about trans issues and the law. As a result of my position, "access" was not a problem in itself, but that does not imply that I was not still the researcher and my interlocutors the researched, even if there were pre-existing or newly formed relationships between us. Furthermore, as the limits of friend/ally/researcher were not always clear - sometimes not even when standing on the opposite sides of a recorder - I had to re-

[59] This term plays on Foucault's concept of subjugated knowledge as a means to validate a "whole series of knowledges that have been disqualified as nonconceptual knowledges, as insufficiently elaborated knowledges, naïve knowledges, hierarchically inferior knowledges, knowledges that are below the required level of erudition or scientificity" (Foucault quoted in Stryker 2006: 13).

[60] Similarly, gay and lesbian researched have repeatedly exemplified the importance of being situated within the communities one is writing about (Weston 1991; Rubin & Butler 1994).

evaluate the meaning of this awkward new position I held within already familiar settings. After careful consideration, it has become clear to me that this extra layer of meaning remains (and probably will remain even after concluding the project) active in my relationship with all things trans.

Secondly, apart from the interviews, the empirical aspect of this study lies in the understandings provided by the location of my own lens as a researcher. That means that the overall analysis and theorising of the project relies on an understanding of trans issues that is afforded precisely by an intimate connection with trans experiences. Legal research might provide access to policies, various documents and even personal narratives through interviews but without sharing trans lives and trans worlds, these sources provide very limited insights. In this case, the capacity for meaningful interpretations of legal issues *as* real-life instances instead of formal scripts about how trans lives are imagined to be lived has been afforded to me through years of personal engagement outside of the academic context. That is, through the countless hours discussing with those close to me - over coffee and food and cigarettes and sex - about aspects of their specific trans reality in Greece, through the years of being active in queer (among other) politics and its bitter-sweet legacies, and through years of providing support in getting things done against all odds.

On the flipside, interacting with varying trans experiences within the research-process pointed to the vast difference among them as well as to the complexity of what positionality might mean in practice. Due to my own gender non-conforming presentation, I have experienced (sometimes skin-on-skin) the dense atmosphericity of gender scrutiny and violence in the Athenian context (Carastathis 2018a). In some settings, this was enough to create a “we” that included me in the spectrum of trans experience or placed me in a proximity of gendered kinship even though I clearly stated that I do not identify as trans. On other occasions, my perceived identity did very little or even worked against connecting me with the context in hand. For example, in interviewing a working-class second generation migrant trans woman, my education, and my Greekness, as well as my apparent

gender non-normativity and overall presentation had already opened up a distance between us that could not be lessened by some kind of supposed gender-transgressing affinity. This kind of "shifting positionality" (Haritaworn 2007) complicated the "insider/outsider" question both in my mind and in the eyes of my interlocutors. Research reflexivity, in this case, translated not only into interrogating my position in relation to my interlocutors but my (gender) identity and presentation. This might be perceived as an exemplary instance suggesting that "reflexivity may be less a process of self-discovery than of self-construction" (Rose 1997: 313). It also confirmed the common ground argument that "insider/outsider status" significantly affects the route and content of a piece of research (Hines 2007).

Arguably, understanding the role of one's position within a research project (or understanding what that position is) does not simply depend on intentionality and, moreover, it entails many contradictions, uncertainties and failures. Gillian Rose describes some of the impossibilities of this process claiming rightfully that "the search for positionality through transparent reflexivity is bound to fail" (Rose 1997: 311). By "transparent reflexivity", Rose (1997) refers to a kind of reflexivity that claims to fully see and comprehend both the positions of researcher and researched, as well as the particular context they are situated in. Indeed, such a quest seems like a "god trick" itself and was not pursued during the present research. My intention was to avoid a certain kind of epistemic dominance that has been thoroughly criticised by trans writers, while remaining aware that, in any case, I have the last word in analytic and interpretive terms and that reveals something about the power balance at play (Haritaworn 2007). Moreover, my intention was to make the research process visible and, thus, accountable, as well as to claim responsibility for its failures in addition to the overall outcomes.

In practical terms, Jacob Hale's (1997b) rules for non-trans people writing about trans people have been a valuable resource for making decisions concerning both the methodological approach as well as the research ethics of this project. This set of rules was published by Hale (1997b) in the context described in chapter two

wherein cross-gender identifying experience became a privileged terrain of theorising for queer and other poststructuralist authors. Written in a straightforward manner, Hale's (1997b) rules can cultivate the impression on the researcher that they are easy to grasp and apply. In reality, their content is layered and grounded in a nuanced understanding of power equilibria embedded in the fabric of gendered belonging, and social hierarchies, in addition to processes of knowledge production.

Having read Hale's text and reflected upon it several times in the early stages of this project, I initially overestimated the epistemological openness and the perceptivity of my approach and considered them as finished tasks. This is what can be called a lack of epistemic humility. Soon it became clear that this guidance, offered so generously by Hale, is not only based on years of first-hand experience but also *requires* years of practice in order to be apprehended. More accurately, it is a companion for a task that is never to be completed perfectly. For example, my understanding of the law's importance within trans lives changed more than once due to different encounters with trans experience and had to be re-positioned, as I describe in section 9.2, in relation to trans legal realities extending beyond the official regulation of gender identity. In this vein, Hale's (1997b) text should be read not as a static sign that points towards the "right" path but as a compass that the researcher can consult at any step of the way, allowing them to be aware of the direction they are heading and, if needed, re-orientate. Overall, the space created by the debates described in this and the previous chapter constitutes the epistemological premise for the present study. That is, a space to converse with trans experience as a set of discourses valuable in and of itself and indispensable in the process of trans-related theorising.

Here, I have briefly presented the broader epistemological imperatives that underpin my position throughout the present project. In the next section, the methodological necessities of the project and my approach to them are broken down and explained.

4.3. Research and Analysis: The Reasons, the Ways, The Sources, The Challenges

In this section, I present the reasons behind my methods as well as the sources that make up the body of the research, that is, texts and interviews. Specifically, as it will be explained, research purposes and the desire that has been described in previous chapters to keep up with the complexity of the issues discussed demanded the use of various texts, thus necessitating different research and analytic modalities. Moreover, in order to accommodate an analysis of the legal framework that does not restrict "the law to a state-based practice of meaning-making", I attempted to include empirical understandings of contemporary trans-related legislation (West 2013: 18). That is, through the conduction of a small number of in-depth interviews, I depart from a rigid understanding of official scripts towards a nuanced conceptualisation of trans legal realities. The content of the interviews is not analysed as pre-theoretical data but, rather, is used as a means of analysis in order to complicate and re-read the law itself (Haritaworn 2007; Carastathis 2018b). To that end, my interlocutors' narratives serve to bring the law to the level of everyday practices and to reveal its contradictory effects on practical, symbolic (or even affective) and political levels. In the next sections, I will explain the rationale behind my methodological choices as well as the way in which the sources were approached and utilised in the research.

4.3.a. Texts

i. Doing History

Aiming to create a legal genealogy of gender identity regulation in twentieth century Greece, I was presented with the question of how to critically trace the historicity of this regulation through and along past gender identification modes, anachronistic medico-legal taxonomies, conflicting judicial practice and hostile theorising. Additionally, as mentioned in chapter two, temporal complexity, synchronicity and asynchrony emerged repeatedly writing about a "contemporary periphery" within theories and disciplines of Anglo-American origin (Mizielińska &

Kulpa [2011] 2016).[61] In this context, the problematisation of linear accounts of history and the interrogation of historiographic modalities became an essential part of building a critical research method.

Queer theorist Dimitris Papanikolaou (2018b; 2018c) suggests a critical historiographical framework that addresses issues of temporal complexity when discussing gender and sexual variance in the Greek context. Papanikolaou (2018b; 2018c) traces the simultaneous and complimentary development of LGBTI+ and queer politics (as such) since the beginning of the century and explores the ways in which the contemporary LGBT and queer present(s) relate to past modes of gendered/sexual practices and politics. Moreover, he notes that, within the Greek context, the progressive legislation of the last years but also the queer critique of idenitity-based claims that are happening simultaneously with a "return of the undead homophobia", as well as of racist and anti-feminist discourses and violence (Papanikolaou 2018c: 171).[62] Nonetheless, Papanikolaou situates this "knotted" LGBT/queer historical time of Greece within a global fragmented tale of progress in which LGBT-friendly legislation and recognition are granted "yet, in a parallel development, and often in the very same 'locations', homophobic, ethnophallocentric and homonationalist apparatuses work to undo, sometimes in spectacular ways, these achievements" (Papanikolaou 2018c: 170).[63]

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[61] The understanding of historical temporalities as multiple, fragmented and synchronous has been also explored in various critical historiographic writings (Chakrabarty 2000; Felski 2000; Bastian 2011; Browne 2014). These writings develop a complex understanding of diverse temporalities that forces us to engage with historical time in terms of relationality, multiplicity and interconnectedness. Michelle Bastian's reading of the work of Gloria Anzaldúa formulates a concept of *simultaneity* that leads to temporally complex modes of belonging and being-together, which are incommensurable with linear time (Bastian 2011). Similarly, drawing on the work of Chakrabarty, Victoria Browne suggests the concept of *polytemporality* that is a feminist framing of historical time as "composite and internally complex" (Browne 2014: 31).

[62] A point also briefly made by Alexandra Halkias (2019).

[63] Here we can see clearly the way out of one of the impasses in Kulpa & Mizielińska's model wherein "Western" temporality appears linear and coherent, and thus static, while CEE temporality in its "knottedeness" has an underlying air of exceptionalism. This exceptionalism not only undermines the epistemological endeavour of Kulpa & Mizielińska's model by failing to challenge the linear historicity of "Western" LGBT/queer progress but also flirts with a sense of national pride inherent in the concept of exceptionalism (Navickaitė 2014).

Accordingly, Papanikolaou examines recent attempts to produce LGBT/queer chronologies that form around what are internationally considered as milestones in LGBT movements (e.g. first official Pride, specific legislation provisions). Such chronologies, claims Papanikolaou, other than creating the image of a linear and unidirectional move towards liberation, also leave out important parts that formed these political genealogies, as in the case of Greece, the close and complex relationships of LGBT/queer mobilisations with radical feminist, anti-racist and other political movements.[64] More importantly, Papanikolaou suggests the existence of (at least) two distinct approaches to the past, which not only co-exist but also are somehow complementary and produce historical narratives concerning non-normative gender and sexuality in Greece. He groups these two sets of accounts under the names "we have always been queer (but without a concrete sexual identity)"[65] and "there have always been homosexuals (but they were hidden from view)" (Papanikolaou 2018c: 175).

The former develops around the argument that, in the absence of traditional homosexual politics and identities, people and communities in Greece found other ways to express, socialise, have sex and do politics.[66] To that end, this way of accounting for the past sees these practices as radical and less static than the identity-based model that dominated in other contexts and, thus, sees Greek non-normative gender and sexual practices as queer *before* the emergence of queer

[64] For an account of the feminist and sexual political struggles of individuals in the intersections of radical antiauthoritarian movements from the late 1990s up to 2010 (which can be grouped as the first period of queer politics in Greece) see Soula Marinoudi's (2017) book "*Life without me. Gendered subjects in and out of movements" [in Greek].*

[65] This notion of queer as the past, as something that "we always have been" would be interesting to be read along José Esteban Muñoz's (2009) account of queer as something that is not here yet in *Cruising Utopia: The Then and There of Queer Futurity*. I do not attempt such a reading here as it would lead more towards the discussion about politics of futurity rather than archival politics that is what I focus on in this section.

[66] For example, Yannakopoulos' (2010; 2016) ethnographic accounts of community-specific male (homo)sexuality, erotic desire and subjectivities present an alternative framework that goes beyond dominant concepts of homosexual identity and (in)visibility.

critique.[67] The latter historiographical project, analysed by Papanikolaou, excavates identity-based articulations of non-normative gender and sexuality that took place in the past but have since been ignored, undermined or distorted in the official (meaning nationalist heteronormative) historical accounts (Papanikolaou 2018c: 175-176). These two modalities of looking to the past, are described by Papanikolaou not only as complementary but also as deeply interrelated, as haunting one another and in a schema wherein, by haunting one another, "they hold each other in check" (Papanikolaou 2018c: 175).

The account of a past of gender and sexual fluidity ("we were always queer") where/when everything was possible, and desire and expression were not contained in the rigid limits of identity is haunted (and probably enabled) by the impossibility of identity-based political claims. That is, according to Papanikolaou, these practices and communities were, through violence and marginalisation, met with a denial of the possibility of identity-based claims to political subjectivity or some kind of sexual citizenship articulation (Papanikolaou 2018c: 175). That is not to suggest that there were no sexual politics but that these politics, dared even within their impossibility, were moments of rupture that complicate even more the historical vocabulary needed in order to do justice to this cultural and political past.

On the other hand, a project that follows the second mode of doing history ("there have always been homosexuals") risks the creation of a "cleansed, white-washed, stable history of gay emergence" (Papanikolaou 2018c: 176). Unearthing LGBT/queer identities in the past but ignoring gender expression and sexual practices that cannot be understood through unified concepts imported from another place/time (e.g. "coming out", "visibility", "transgender") produces a limited understanding of the past and, thus, the present. It produces an LGBTI+/queer image of the past that translates in present political modalities that cannot engage critically with the current impossibilities of political articulations,

[67] In this model, I see a link with Kulpa & Mizielińska's project of "De-centring" wherein, similarly, contexts that did not share the same path of LGBT identity politics are presented as always already queer and are elevated as such in a romantic account of the past/present (Navickaitė 2014).

that is, with those populations that, in an "extended present" (Tsilimpounidi 2016: 83) of precarity and vulnerability, are denied access to political subjectivity.

Conversely, Papanikolaou finds that both lines should be interwoven within radical historiographical projects concerning non-normative gender and sexuality in Greece. Given the stiffness of the legal field, transferring such analyses from other fields might not be easy but I hold that it is essential. Utilising such an understanding of the role of different historiographical frameworks, the next section explains the way in which I have attempted to construct a critical genealogy of the legal management of gender identity with a focus on cross-gender identification. That is, an approach to this legal management that goes beyond a succession of legislative landmarks and, in this way, complements the emerging Greek scholarship on trans legal issues.

ii. A Fragmented Archive of Gender Regulation

In this section, I describe the methods used to organise a legal genealogy of gender identity regulation (Part B) and the rationale behind them. The complementary way this critical archive functions in relation to the unidirectional legal scholarship on trans issues in Greece suggests that it constitutes a significant contribution of the present research to a currently emerging body of literature.

During the last couple of years, the concept of gender identity became a focus-point for legal scholars and advocates in Greece overnight (Chamtzoudis 2015; Theofilopoulos 2016; Kotzabasi 2017; Kounougeri-Manoledaki 2017a; 2017b; Leleki 2017; Pantelidou 2018; Papadopoulou 2017; 2018; Peraki 2017; Fountedaki 2017; Kaiafa-Gbadi *et al* (eds.) 2018; Tsirou 2019). At the same time, the difficult task undertaken by those advocating for legal reform required very specific frames i.e. legible frames of trans rights frames with supranational recognition (Papazisi 2000; 2016; ILGA & OLKE 2013; Theofilopoulos 2015a; GNCHR 2015; Galanou 2016). Using these frames has the undeniable value of intelligibility in (inter)national legal arenas where, indeed, it has furthered claims of contemporary trans communities at an accelerated pace (Papadopoulou 2018). This line of engagement, nonetheless, looks

to the legal past mainly in order to create chronologies that make sense in international legal terms while mapping out linear tales of progress and successful lobbying. In this procedure, an alternative legal historiographical project is missing, haunting the emerging scholarship on trans issues only by its absence. More specifically, I suggest that a lot is lost in the process of cataloguing only the useful parts of the legal past and ignoring the rest. This way, stories of cross-gender experience that do not correspond with the contemporary legal concept of gender identity remain unclaimed historical instances.

With that in mind, I have mobilised Papanikolaou's (2018b; 2018c) insights on the need for critically engaged archives and attempted to fertilise contemporary legal trans frames in Greece with the haunting presence of a τρανς legal history of the twentieth century that works complementary, almost reparatively, to the one described above. To that end, I organise a legal genealogy that studies the regulation of gender identity beyond frames of current legibility following the winding paths of past modes of gender belonging and state power. By this gesture, instead of assuming linearity and coherence within the evolution of gender identity management, I draw different connections among medico-legal taxonomies, ideological apparatuses, legal theories and judicial practice. In this process there are many "inconsistencies" that create a chaotic nexus of different pasts marching towards what is, on paper, a unified legal present, that is, the framework of contemporary trans rights.

What drove me to undertake this research task was the understanding that, without a genealogy of gender identity in the law, which makes some less obvious connections, we are left with the impression of a lack of past entanglements between trans people and the law. For example, a 2007 FRA legal study about discrimination on grounds of sexual orientation in Greece stated that "trans people under the Greek legal system are a non-issue, since there is not a single legal text or judicial decision dealing with them" (Hatzopoulos 2007: [13]). The author continues:

> *Trans people under the Greek legal system are not specifically legislated upon. A research in the electronic legal databases using the words 'transgender' or 'transexual' gives no hits, but for the occasional reference to extra-conjugal relationships in the course of divorce and child custody proceedings. Not a single presidential decree or ministerial decision has ever been issued concerning the status of trans people. It is not clear whether trans people are covered by legislation prohibiting discrimination on the basis of sexual orientation or on the basis of sex. What seems certain, however, is that no judicial or other equality body decision has ever been issued concerning trans issues (Hatzopoulos 2007: [67]).*

Although this might be a useful strategic choice within legal lobbying in order to prove the lack of an antidiscrimination framework, it disenables an understanding of the historicity of trans engagement with the law. To be exact, since, as will be described in Part C (chapters seven, eight and nine), trans legal protection *as such* is a very recent concept in the Greek legal order, the text above is indeed accurate in letter. Nonetheless, an abundance of texts that is analysed in Part B (chapters five and six) reveal that gender variance and specifically cross-gender identification, in its historically shifting taxonomies, is far from being described as a "non-issue" for the Greek law.

The epistemological endeavour described above translated into a series of methodological choices within my research into documents and archives of the 20th century. The research took place mainly at the Library of the Athens Bar Association. The first choice of major importance was to look beyond current understandings of transness into gender identifications that, although they might be considered anachronistic in today's trans identification terms, have deeply influenced their development. Even though contemporary conceptualisations of homosexuality, intersexuality and gender variance demand a distinct framing of these issues in the legal, medical and political arena, it has been established by authors in different fields that gender identity and sexuality have been historically organised and managed under different taxonomies than the currently existing

ones (Kritsotaki 2013; Tzanaki 2018). I consider it crucial to bear in mind that the criteria of such classifications are always shifting, thus, altering the borders among and within such categories in time (Dreger 1998; Halberstam 1998a). Moreover, although currently intersex issues are struggling to be sufficiently represented in the LGBTQI+ agenda and legislation, in the previous century, at least in a national context, trans issues have stowed away within the management of "hermaphroditism," which is understood as the problematic precursor of intersexuality (Dreger 1998; Kritsotaki 2013). In this sense, drawing a straight line from the concept of "hermaphroditism" to today's meaning of intersexuality misses out a variety of experiences that might fall under the purview of trans identity today (if such a "translation" is absolutely necessary).

For this reason, during my research in legal journals[68] and databases of the Athens Bar Association I used not only the Greek equivalent terms for "transgender" (*διεμφυλική/ός*) and "transsexual" (*διαφυλική/ός, τρανσέξουαλ*) as keywords but also "travesti" (*τραβεστί*), "hermaphrodite" (*ερμαφρόδιτος*), "pseudohermaphrodite" (*ψευδο-ερμαφρόδιτος/ψευδερμαφρόδιτος*), "sex change" (αλλαγή φύλου), and "homosexual" (*ομοφυλόφιλος*) etc. in order to find legal traces of gender-variant subjects within an archive of dominant hostile discourses. Some documents were found this way and several more by following the legal references in these documents as is a common way of tracking case-law and other texts within Greek legal fields. The litigation and articles I found often propelled me into the fields of Criminology, Legal Medicine and Sexology, which were key fields for the unfolding of the debate on gender variance and the law. As those fields follow a different canon, which is currently being explored by writers such as

[68] In Greek legal science, legal journals are often where case-law and other jurisprudence used by legal professionals and courts can be located:
Whereas there are no official reporters in Greece, many important cases are reprinted in major journals, which can be said to function primarily as reporters. Such journals also include secondary legal materials, such as articles and comments on reprinted cases (…) Case reporters are not published by the courts, but by private high academic committees. (Guide to Foreign and International Legal Citations 2006: 74-75).
For this reason, case-law is often cited according to the journal it has been published in, which is the case with some of the jurisprudence analysed in the next chapters.

Tzanaki (2018) and Kritsotaki (2013), my interest was directed more towards Civil law as the main field responsible for citizen registration and, thus, gender classification in the law. For this reason, I stepped only momentarily into those fields in order to retrieve what was necessary for my own research task and avoided getting lost in them and compiling a chaotic listing of different paradigms instead of a meaningfully structured archive of regulatory frames.

Having collected a variety of documents during several visits in the Library of the Athens Bar Association, my conviction was that there was more to this debate than what could be found this way. Therefore, I decided to manually go through the legal reviews and monographs of authors that are considered authorities in Civil Law.[69] The parts that I focused on were those concerning the definition and attributes of the "natural person", as well as the preconditions for marriage and divorce. There I found more theories about sex and gender and how they were defined and regulated when in doubt.

Moreover, looking in the field of Criminal Law, the main debate I traced was within Medical Law and it concerned the potential criminal liability of doctors performing "sex change operations." Nonetheless, acknowledging the social exclusion trans people have historically been subjected to, I was aware that many trans individuals (in this case trans women more specifically) have had daily interactions with the police and criminal courts due to their engagement with precarious sex work and other underground outlaw networks. Additionally, during the 1980s police-forces commonly raided cruising areas and other parts of city centres harassing those frequenting there - especially trans-feminine sex-workers (Paola Revenioti 2011). As

[69] Within the Greek legal tradition, prominent jurists of each field publish volumes of theory and article-by-article interpretative analysis following the structure of the main Codes, thus, giving an overview of the principles of their field. These volumes, although as all "jurisprudence, scholars' opinions and other legal literature are not considered formal sources of law, owed partly to Greece's civil law background,"are a point of reference, for other legal scholars when interpreting and applying legal texts (Guide to Foreign and International Legal Citations 2006: 72). The influence of such volumes depended (and still does) more on the prestige of the author and the degree of authority he is claimed to have within his field and less on the grounding, coherence and currentness of the arguments used.

will be established in the course of my analysis, especially during the 1970s-1980s this "familiarity" of trans women with the legal order and its functionaries is concealed within theoretical Civil law texts. Overall, as will be suggested in the following chapters, the tendency in Greek legal theory, especially Civil law, of the 20th century was not only to pathologise and "sort out" gender variance but also, especially in the case of trans women of that era, to render them invisible within specific contexts. To that end, I decided to take a methodological detour and research similar keywords in the database of the Hellenic Police journals that have been recently digitalised. There, I was able to find semi-official traces recording the frequent interaction between trans women and the law. By this manoeuvre, I was able to establish that, in this period, although trans feminine individuals (under different nomenclature) were no strangers to the law and its various apparatuses, legal theorists were systematically erasing them from their theories.

The collected documents from all sources were read and re-read in almost an archaeological fashion of trying to trace links and discover their own methodological routes and epistemological underpinnings. Overall, the archive that is presented is fragmented, partial and relies on various sources. Although I use a *chrono*-logical order in presenting this legal archive, it is a legal genealogy that is not built under the canon of an evolutionary linearity. Last, as my approach holds that in order to understand the operation of law in everyday life it is essential to "avoid mistaking the public transcript for reality" (West 2013: 43), it must be stated clearly that this is a genealogy of dominant discourses - an archive of regulatory frames and not an account of legal realities of gender variant individuals in the 20th century. That would be a different endeavour that would entail looking into the political scene of the era as well as the individual narratives. Nonetheless, my aim in this part of the research was to establish the historicity of formal regulatory frames and an in-depth understanding of judicial practices and, to this direction, I have undertaken the methodological approach described above.

iii. Contemporary Legal Texts

In a different spirit, in Part C (chapters seven, eight and nine) the aim is to interrogate political premises of trans-related legislation on a state-level and the complex relationship of such legislation with social reality and individual perceptions, practices and agency. To that end, the texts used in these chapters differ in terms of research methods and analysis compared to those described above. The texts used here include current legislation, (inter)national case-law, various reports and Parliamentary minutes. These texts can be found online (and, thus, did not demand physical presence in a research location) and are situated within a familiar legal and socio-political context that does not entail the type of archaeological research and analysis used in the previous part. Other texts used are press-releases from various organisations and more scarcely media articles.[70]

The texts are analysed not just along their historico-political context but *as parts* of state-level political projects and national ideological debates. That is, trans-related legislation is read along processes of Europeanisation, nationalist politics and legal imaginaries of protection and progress. In this sense, the law is not studied just according to what it claims to do but rather in relation to the various workings it enables on a juridico-political level (Beger [2004] 2009; Spade [2009] 2015). This translated into posing alternative questions when assessing a legal reform and its effects. For example, instead of examining what an anti-discrimination law claims it does, I proceeded to interrogate the political conditions that dictated its introduction but also the work it performed both on a state level as well as a social and even individual level. Such a reading requires a combination of sources, as well as a synthesis of different discourses and levels of discourses. In this sense, the legal texts analysed are not read *in a vacuum* but in combination with other texts and, most importantly, as I describe in the next section, in close relation to personal narratives of trans experiences and the law.

[70] Although the media discourse and its impact is often implied in this part of the text, I have chosen not to take the route of a systematic analysis of media discussions, which would have led me to a different task.

4.3.b. Interviews

Weaving personal experiences into the analysis of trans-related legislation was imperative for my approach. It was not only a means to interrogate the applicability of the law but its conflicting affective and material qualities. As modern law is built upon an imaginary of coherence within contexts of imperialism and colonialism, it has been traditionally considered - and studied - as a set of autonomous and sovereign rules claiming an uncontested authority (Darian-Smith 2004: 554). In that sense, the law does not appear inherently open to an inquiry that highlights its ambiguities, contradictions and its porous nature, thus, challenging fundamental assumptions of objectivity, authority and universality (Darian-Smith 2004: 554). Nonetheless, engaging in critical empirical studies of the law allows for a different analysis and evaluation of legal concepts and their role in daily meaning-making processes (Darian-Smith 2004: 553). This is aligned with a general tendency within critical approaches to legal research that moves away from using the state as a unit of analysis and resorts to grounding legal studies in the dynamic experiences of people (Darian-Smith 2004: 547).

Accordingly, I decided to conduct semi-structured interviews aiming to facilitate a grounded approach that can address the complexities of the emerging issues. As dictated by critical epistemologies of feminist and other poststructuralist origins, these interviews were designed and utilised in a way that moves away from traditional models of empirical research in social sciences (Holstein & Gubrium 2003; Kong, Mahoney, & Plummer 2003). That is, the interview is not seen as a means to obtain access to the “truth” of the subject but an instance of social interaction constitutive of both parts involved, dense with delicate power (im)balances and open to different patterns of meaning-production (Phoenix 1994; Plummer 1995; Holstein & Gubrium 2003). As Holstein and Gubrium (2003) note “treating interviewing as a social encounter in which knowledge is constructed means that the interview is more than a simple information-gathering operation; it's a site of, and occasion for, producing knowledge itself” (Holstein & Gubrium 2003: 3).

Moreover, having considered the critiques mentioned at the beginning of this chapter regarding positionality and reflexivity in research, I tried not only to be aware of the location (in every sense) in which these encounters were taking place but also to be open towards my interlocutors. Ellis and Berger (2003) refer to such a mode of interviewing as the "reflexive dyadic interview," which they describe as such:

> *Reflexive dyadic interviews follow the typical protocol of the interviewer asking questions and the interviewee answering them, but the interviewer typically shares personal experience with the topic at hand or reflects on the communicative process of the interview. In this case, the researcher's disclosures are more than tactics to encourage the respondent to open up; rather, the researcher often feels a reciprocal desire to disclose, given the intimacy of the details being shared by the interviewee. The interview is conducted more as a conversation between two equals than as a distinctly hierarchical, question-and-answer exchange, and the interviewer tries to tune in to the interactively produced meanings and emotional dynamics within the interview itself (Ellis & Berger 2003: 471).*

Hence, the discussions were also designed to be open-ended and, while to a great extent guided by me, they allowed diversions, story-telling and bilateral sharing of information, experiences and thoughts.

In terms of analysis, I followed critical strands of research that, informed by feminist and other critiques on representation and power, do not view interviews as a pre-theoretical source which is interpreted, theorised and generalised by the sole agent of the research: the researcher (Phoenix 1994; Ellis & Berger 2003; Haritaworn 2007; Carastathis 2018b). Kong, Mahoney and Plummer (2003) describe traditional models of interview-analysis in gay and lesbian related research as such:

> *The standard mode, of course, is to use interview extracts in such a way that the representative text becomes littered with examples of first person speech drawn out of interview findings. In this mode of representation, the*

> *interviewed gay or lesbian is engrossed by the author's own writing and scholarly authority (Kong, Mahoney, & Plummer 2003: 99).*

Departing from such analytic models, trans scholar Jin Haritaworn (2007), following feminist lines of thought, writes that, in terms of analytical modalities, "participants are not merely raw, pre-theoretical sources of 'experience', but active producers of their own interpretations which compete with those of the researcher" (Haritaworn 2007: 2.4). Acknowledging the limit of such a critical practice (that is, the fact that the researcher has the final word in the interpretative process), it is nonetheless important to be self-conscious about the way interviews are analysed and used in a text.

With these concerns in mind, I decided on a small number of interviewees (ten in 2017 and include an additional four that had been conducted in 2014 as it is explained below). This would allow me to include extended parts of my interlocutors' understandings of the issues discussed rather than grouped summaries of their experiences or scattered quotes confirming my own pre-conceived theories. Moreover, the small number of interviews ties in with the entire research-design, within which these conversations constitute *one* of the different sources of the text but not the entirety of the project that was not meant to be ethnography or an extensive empirical study.

I interviewed three legal professionals, who, in turn, offered their perspective concerning the legal aspects of some of the issues examined (see Appendix B for further details). One of them had experience with various human rights cases, including trans-related jurisprudence. The other two were chosen for having worked in various positions within what is being called the "refugee crisis" in Greece, as my initial intention was to interrogate challenges faced by trans migrants and refugees in Greece. Nonetheless, as already discussed in chapter one, the issues that arose from these interviews as well as other studied sources (media interviews, instrument reports, texts from political groups/NGOs and other organisations) were vastly different than those negotiated in the rest of the research and demanded a different perspective, as well as a different framework

and a different body of literature (Aizura 2012b; Bhanji 2012; Cotten 2012; Shakhsari 2014a, 2014b; Camminga 2017). After careful consideration of the complexity of the related issues (see footnote 4), I decided against including those issues without guaranteeing them enough space to be equally reflected upon. That choice also meant that two interviews with legal professionals are not used to a great extent in the text.

Undertaking this project during the period of the most accelerated changes for trans rights in Greece, I decided to utilise time itself in my method. I had already undertaken some research on the issue of gender identity recognition in 2014 for my Masters thesis at the department of Social Anthropology and History of the University of the Aegean (Kasapidou 2015). During that time, I had conducted in-depth semi-structured interviews with five trans individuals. Those three years between the two pieces of field research brought immense changes in the national political terrain but also, as will be established in the following chapters, in the realm of LGBTI+Q politics and legislation.[71] In this context, I decided not only to re-interview some of the same individuals (four out of five) I had conversed with in 2014, but also (after obtaining both my interlocutors' and my department's permission) to use the transcripts from the first interviews in my analysis as well.

In addition to these pre-existing interviews, in 2017, I recorded and transcribed discussions with seven trans individuals - four that I had already conducted interviews with in the past and three that I interviewed for the first time. I conversed overall with three trans men and four trans women of different ages (in the range 19-40) and social status (see Appendix B for further details). All the

[71] Specifically, the first interviews were conducted under the previous legislative frame wherein legal gender amendment followed a historically vague set of case-law and was possible only after "sex change" through a series of operations (see chapter eight). Overall, it was a period of intense political turbulence in Greece and also it followed the passing of the infamous "antiracist law" (Law 4139/2013) that is discussed in chapter seven. The second set of interviews was conducted within a climate of an overall popularisation of LGBT claims in the mainstream political agenda and the granting of new LGBT-related legislation by the SYRIZA government (Gkeltis 2019). More importantly, these discussions took place in the aftermath of the passing of Law 4491/2017 on gender identity recognition, which brought a paradigm-shift for trans legal issues but also a deafening explosion of visibility and public hostile discourses (see chapter eight).

individuals that agreed to talk to me were either people I knew, to different extents, or friends of friends. Three of the trans women were of non-Greek or of mixed national (and in one case racial) origin, but all were born or had lived from a very young age in Greece. Among these seven trans people that conversed with me, there was a range from having been heavily involved in LGBTI+ and queer politics to being completely unaware and slightly opposed to it, and other degrees in-between. I considered this, other than age and social status, to be one of the most important factors influencing their perception regarding the issues we discussed.

Using interviews with the same individuals conducted a few crucial years apart allowed for a much deeper understanding of the issues that were being discussed, as we had all been radically changed by the passing of this time.[72] During our discussions, we repeatedly reflected upon the changes that had occurred at the individual but also national level and, looking back to this methodological choice and the depth it offered to my research, I consider its contribution to this project indispensable. There was one exception nonetheless, which is my responsibility as a researcher to acknowledge.

When I approached Mike for an interview (he was a friend of a friend) in 2014, he was open and willing to meet. I met him and his partner in their house, where we talked for several hours. My presence there felt welcomed and they were both eager to talk about gender identity issues. Nonetheless, this time, in 2017, Mike was harder to reach and, although he assured me he would be happy to meet again, it didn't quite feel this way. This time, we met in a café and he was very reluctant to talk about any of the topics I brought up although they were a lot less personal than those we had discussed in our first interview, often by his own initiative. By the time of our second meeting, Mike had amended his documents

[72] That is, I could see the changes in my interlocutors' experiences and analyses due to having amended their papers, having changed their engagement with politics, having had surgeries, having been broken by the extended crisis or just having moved-on in life. I also saw that my own stance had changed, transferring from a small island university on the Greek-Turkish borders to a prestigious UK university, returning from the field of Social Anthropology to the legal field, having developed a more substantive knowledge of trans scholarship but also having moved-on in life as well.

and he had married his partner, who was expecting a child. As he explained, he had struggled to go through the entire procedure with many difficulties and his documents were amended before the new legislation was introduced. At some point, as I was asking if he had followed the news about the new legislation and what was his opinion about the law, he said:

> *Mike: I didn't…I honestly tell you I heard nothing about it. I don't know if it has to do with a reaction on my part, I didn't even pay attention, I don't know if it's denial...so be it, let it be denial! (…) I didn't, I would just have gotten more pissed off if I were to bother with it because I'm thinking, wait a minute, I dragged it out so much…I dragged out my life. Because I didn't want to get to thirty-seven, to put it this way Roussa, to have a kid! Because you get to thirty-seven, by the time it's born you are forty, by the time it's a bit older...I'm going to be fifty…and ok, I'm not saying that this is too old but…I wanted to have done this earlier! So I would just get pissed off again. So…as if none of this happened, I don't care. This is how my life had to be, to reach this point, stage by stage by stage…step by step…what laws and what bullshit, ok now, so what? [Interview with Mike in 2017].*

What I had failed to recognise before this point was that because the law - as well as time itself - had been against him for many years, regardless of our best intentions, this discussion was a reminder of everything he had chosen to leave behind ("I have drawn a big X on all of this and never think about it" he told me). As it became clear during our conversation, Mike felt as "a man, who just had a medical issue in the past" and it was precisely this trans - in my words but not his - past, which he had distanced himself from, that I was asking him about. I proceeded with trying to discuss only things that he was comfortable with and, overall, cut our interview short. Reflecting on this interview, I do wonder whether I should have foreseen this outcome based on my previous discussion with Mike. Even if so, in-depth interviews always entail a certain uncertainty, a risk factor that cannot be

fully eliminated.[73] Nonetheless, this incident underlines that, as was discussed earlier, it is imperative to consider ethics as a crucial part of the research and especially of methodology. It also confirms that grafting ethics into research-design requires a lot more than securing anonymity, protection from harm and a right to withdraw (Campbell & Lassiter 2014).[74] Sometimes it means taking responsibility for being less intuitive than what the situation demanded.

Last, all the interviews closed with my offer to answer any questions my interlocutors might have as a minimum attempt to break the traditionally unilateral schema of the interview. The questions I received varied from the genuine aporia regarding whether anyone would read this text up to my personal opinion and experience of the issues discussed. In one of the more intense moments, Philip, at the end of our first interview in 2014, asked me several questions concerning my own gender non-conformity and its bodily and sexual expression. I tried to reply to his questions but realised that the task he had made seem easy by discussing intimate details of his own experience was rather overwhelming when addressed to me. Faced with my apparent uneasiness, he reached for my recorder and switched it off, stating with a playful wink "don't worry, this is between you and me". This gesture not only exposed my own weakness to adequately fulfil my methodological

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[73] Laurent Berlant's directions to her students for a research project that included interviews enclose the fragilities of the risky endeavour of interviewing people:
So the rules were: tell them what you're doing and what it's for, no tricking. They have to consent to talk with you under explicit parameters, which makes the demand for consent a fantasy of governance as a good luck charm, because when we consent it's to the unpredictable and the unreliable thing to come and not, sadly, to a capsule of safety. In the interviews you have to have a plan and both stick to it and be a human in the situation, following out arcs with care, which is different than carefully. Good luck with that. Do no harm, break no things, including trust. Good luck with that. Try to be worthy of trust. Be attentive to intervals (Berlant 28.4.2016).
This paragraph gave me a lot more guidance than several texts on methodology and research-design.

[74] Some additional concerns included the navigation of sensitive issues during interviews, the over-scrutinised history of trans bodily anatomy and identity, as well as, the recognition of the relationships formed through and during research. Although these concerns led me to avoid certain topics, the nature of the issues discussed often created a space of sudden intimacy, within which my interlocutors shared far more sensitive and explicit information than what was requested. Details of bodily anatomy, illegal activities, childhood memories and instances of abuse were recorded but not used as I felt that these were not the things I had asked consent for using. They were shared with me in the context of the interview but the thin line of what was shared with me *as* a researcher was too blurry to risk any mistakes.

promise to be open to my interlocutors but also shattered the interview protocol, establishing - or revealing - a different set of dynamics between us. This challenging dynamic was intensified by other ever so slightly noticeable means in both interviews, which contributed to making the navigation of this terrain one of the most difficult and exciting instances of the field-research.[75]

Throughout this chapter, I have presented the ways in which I conducted this research and the reasons that led me to this specific methodological path. Influenced by feminist and other critical modes of research, this project follows strands of trans-related scholarship which value personal experience and positioning within knowledge production. In such a critical understanding of the research-process reflexivity and ethics become integral parts of the methodology. Specifically, in this project, writing about a marginalised identity, I had to reflect on the effect of my connection to trans individuals but also to trans identity itself. I tried to compile a set of research and analytical modalities that would minimise the reproduction of the epistemic violence, which has been pointed out by trans writers in the past, as well as walk the thin line of researcher/trusted ally taking responsibility for my choices.

[75] For example, although when meeting in cafés with interlocutors I normally paid for anything consumed, Philip insisted on getting the bill but also picking me up by car and even getting the door for me. These details unsettled not only the research protocol but also the gender dynamics between us, creating a confusingly intimate interaction with an elusive power-balance.

CLOSING PART A

Part A presented the main theoretical debates that have formulated the disciplinary environment of the present study. Having mapped out the theoretical background of the field, the present study opts to align with writers who call for theoretical polyvocality and framework multiplicity as the most appropriate response to the issues arising via the diverse experiences theorised within trans studies. Additionally, another dimension is given to the explored theories and debates by examining their position within a global economy of knowledge production and circulation. Embedding historicity and geo-temporal context-specificity as crucial parameters, chapter two suggests the necessary epistemological gestures which will materialise in the next parts of the thesis in order to accommodate an analysis that takes these parameters into account when utilising theories imported from different contexts.

Additionally, this first part has offered a nexus of legal theories and concepts that will be used in the analysis throughout the thesis. Chapter three starts from the concept of trans rights, which is the most commonly used framework for conceptualising contemporary entanglements of gender variance and the law. Some of this kind of paradoxical workings of the rights framework will be discussed in Part C that appraises contemporary trans-related legislation. Apart from trans rights, this part introduced a variety of other concepts. Specifically, critiques of classical categorisation were interwoven with theories of modern-state governance. Moreover, seemingly neutral processes such as civil registration, sex classification and legal interpretation were problematised and repositioned in a critical frame. These complex notions will be utilised in the next part in order to analyse the workings of sex classification in the law during the previous century and the central role of categorisation and legal interpretation in this process.

Lastly, Part A closes by explaining in detail the epistemological principles according to which the research was conducted and its specific methodological route. The feminist call for partiality, situatedness and accountability and the way it has transferred into trans writings has effected the ethical and broader epistemological

choices across all stages of the present research. After a brief reflection and self-positioning, chapter four takes the reader through the various sources analysed. Texts from the previous century, many of which were found through archival research, are analysed in the next part in an almost archaeological manner in order to compose a fragmented archive of regulatory frameworks for gender variance. Moreover, a variety of contemporary legal and other texts are combined with a set of semi-structured interviews in order to facilitate a critical multi-level appraisal of all contemporary trans-related legislation in Greece. Overall, with the conclusion of this first part, the theoretical, disciplinary and methodological premises of the thesis have been set and Part B, which follows, will utilise several of the analysed concepts to explore legal sex classification in the twentieth century.

Part B. Sex (Re)Classification in the Twentieth Century

As Part A of the thesis has been concluded, I have framed the current project both in terms of disciplinary and theoretical environment. Moreover, I have described the epistemological premises of the research and explained the methodological route taken to materialise it. With this foundation laid, in Part B, I proceed to organise a critical but fragmented genealogy of the regulation of legal gender, or rather sex (see Appendix A for terminology), in the twentieth century Greek legal order.

Sex classification and the management of "doubtful sex" have been historically in the hands of "men of medicine and science" or "medical and scientific men", in Dreger's terms (Dreger 1998: 10). In the two chapters that constitute Part B, I focus on texts produced by Greek men of legal science[76] during the twentieth century concerning sex classification and the management of "doubtful sex." The fact that the Greek civil legislation did not have, until recently, an explicit provision regulating sex (re)classification issues does not indicate that such issues were absent from the Greek legal order. As is demonstrated by the studied texts, national courts have been confronted with claims for sex re-classification decades before any relevant legislation appeared. Nonetheless, the lack of an explicit

[76] Dreger's labelling of "men of science" emphasises the fact that these scientists were indeed all men, which is "a point of obvious significance given that this is a history of the negotiation of the nature of sex" (Dreger 1998: 10). Similarly, the texts that are analysed below, as well as their sources and points of reference, are the works of men and men only. Although, the first woman lawyer in Greece is registered in the Athens Bar Association in 1925, the Greek legal theory and practice remained, for decades, almost exclusively male. Subsequently, even if outside the scientific terrain new political claims had started to be articulated, the negotiation of sex/gender within legal theory during entire twentieth century remained mostly in the hands of "men of sciences".
Even throughout the last part of the century, while feminist -and later LGBT- legal theory and jurisprudence were radically influencing the legal paradigm in Euro-American legal orders, within Greek legal theory there is a notable absence of such critique (Rethymniotaki *et al* 2015 : 10, 12; Tsoukala 2007). A rare exception is the Women's Studies Group of the Aristotle University of Thessaloniki (1983-2003) whose work both within and outside the academia was very important (Mihopoulou 2006a; Tsoukala 2007). Although the group embraced interdisciplinarity and later on included members from different fields, all its founding members were alumni of the Law School, which remained its base until the end (Mihopoulou 2006a). Among the legal scholars who founded the group was the late Giota Kravaritou, whose brave work (such as the publication of the book "Gender and the Law" in 1996) stands out in the male-dominated Greek legal theory of that period.

definition of sex or sex classification criteria in the Greek legal order suggests that sex as an abstract legal category has been employed according to historical interpretations of its premises.

By reading these texts, I will trace the debate over sex classification in the law, its points of reference and turning points but also the work performed by the interpretation of sex as a category and the power this interpretation entails. This part will demonstrate that, throughout the century, overlapping interpretative workings have created a nexus of categories and practices that aim to naturalise the gender status quo while erasing trans subjectivity with immense conviction. In this process, "hermaphroditism" becomes a key concept, whose role and conceptualisation will be interrogated in both chapters.

Overall, this part utilises the analysis offered in chapter three concerning civil registration, and critical approaches to categories and classification, as well as interpretation as a modality of power. Moreover, it builds upon the background that has been set down in chapter three concerning the conceptualisation of "hermaphroditism" and the emergence of the "transsexual" in medico-legal discourses. As described in chapter four, this part transfers into the legal field the incitement to critically do history concerning gender and sexuality in Greece "not as a parallel undertaking to contemporary queer politics, but as its inescapable yet productive hauntology" (Papanikolaou 2018c: 180). My aim in this part is not to fulfil the (admittedly ambitious) political potential of this incitement but to open up to critical inquiry a part of legal history in Greece that remains either ignored or settled within its dominant narration.

Chapter 5. Sex Classification in the Twentieth Century (I)

Chapter five opens by critically positioning sex as a significant legal category within processes of civil registration in Greece and its connection with modern techniques of governance. Following that, the rest of the chapter attempts a critical reading of Civil law texts dated approximately in the first half of the century. The analysis of these texts and case law will establish how "doubtful sex", under the label of hermaphroditism, was managed theoretically and practically in the legal realm during this period.

It will be suggested that Civil law scholars managed the tension between the supposed "givenness" of sex and the demand for medico-legal methods for its clarification and assignment through a series of interpretative manoeuvres. Through the naturalisation of the upheld categories and the standardisation of any diverging experience, Civil law jurists insisted on a simplified depiction of an, according to a natural taxonomy, evenly-sexed population. In this schema and, unlike in the Legal Medicine canon, exceptions were underplayed and categories were subsumed by one another in order to complete the vision of citizen legibility in legal terms.

5.1. Civil Registration in the Modern Greek State

My mother and my mother's mother have the same birthday. A fact which I found thrilling as a child. Growing up, I realised that actually my grandmother, Rousa, born during a different era in a village of Western Greek Macedonia, did not go through the same registration processes that might now appear self-evident in order to become a legible citizen (i.e., a civil registration act and a birth certificate). When, in an older age, it became necessary for her to register officially for bureaucratic purposes, she had to provide an exact date of birth - a piece of data that could be seen nowadays as central to one's official identification as "this or that person" (Caplan 2001). However, this date was a piece of data that her 12-sibling family had

not marked as a substantial fraction of information that needed to be recorded or remembered. A piece of data that, since she simply did not possess it, when asked, she (re)created on the spot by giving the date of birth of her youngest daughter (my mother). In such instances, which might seem insignificant at first glance, it becomes evident that that the ways we describe and recognise ourselves at an official and unofficial level are not ahistorical practices.[77] Furthermore, it becomes clear that the means and the extent of the citizen-state connection are dependent on various cultural, socio-political and other parameters. Finally, it serves as a reminder that, for the modern Greek State, the documentation of citizens and their official identification through civil registration is a relatively recent endeavour.

Currently, civil registration in Greece is conducted and managed through the register offices, which are special offices in every administrative region assigned with the task of keeping vital public records (Skiadas 2005). These records serve to verify, by means of state authority, the civil status of citizens, that is, birth, marriage (or recently registered partnership) and death (Skiadas 2005:14). Before the establishment of a state sanctioned civil registration system, the Orthodox Church of Greece (OCG) kept local (less systematic) records of the Christian population in every parish (Skiadas 2005: 15). The institution of register offices as it exists today was introduced in the Greek legal order in 1836 with a Royal Decree "On Registration Books" (R.D. 20/10/1836), which remained inactive until its replacement by the Greek Civil Law in 1856 (GG 75/15-10-1856). The Greek Civil Law of 1856 included a detailed account of the issue of civil registration (60 articles) and was followed by a Royal Decree (R.D. 31/10/1856) mandating its application and providing prototypes/examples of register forms. Regardless of the several government issued circulars threatening penalties, none of the above laws produced the desired results. Less than half of the births were recorded in the city of Athens, while, in rural areas, the percentages were lower to non-existent (Skiadas 2005: 31-33).

[77] See for example Scott's fascinating account on the rather recent creation of surnames (Scott 1998: 64-71).

As Scott points out, one of the most important obstacles that must be tackled by modern states during standardisation processes is the resistance of the managed population to the new administrative policies (Scott 1998: 80). Civil registration and social legibility projects are usually followed by an elevated level of control and various burdens such as taxes, and obligatory military services etc. (Scott 1998: 68). The resistance to new policies might not necessarily be formed as a conscious collective decision or a willing act of civil disobedience but, in any case, convincing a population to abandon traditional structures and legitimisation processes in favour of a new central administrative system is no easy task.

Most of the registration acts of this period refer to deaths, since the formalities surrounding the death of a citizen would compel both the authorities and the families to follow the official procedure. On the contrary, births and marriages could remain in the realm of traditional rites without any bureaucratic mediation (Skiadas 2005: 56). Meanwhile, the Orthodox Church maintained its parish-level system of population register, which was often used by state authorities when faced with a lack of any other source of documentation[78] (Skiadas 2005: 32). The number of registration acts increased significantly when, after the amendment of the 1856 Law, the certificates issued by the register offices became the sole and exclusive means of verifying the facts they pertained to (Skiadas 2005: 62). The institution of register offices finally started to operate systematically in 1925 after the voting of Law 2430/1920 and a corresponding Royal Decree in 1924 (R.D. 14/08/1924). The new legislation introduced an easier[79] and costless procedure for the civil registration of citizens while maintaining the penalties for both citizens and public servants who omitted mandatory registration acts.

As Dean Spade notes, a safe way to substitute a local custom with a state mediated practice is to make it impossible for citizens to get by without complying with the

[78] For example, the military services used databases of the Church to draft the adult male citizens (Skiadas 2005: 41).

[79] For example, Law 2430/1920 established register divisions according to the administrative divisions (municipalities and communities at the time), thus, providing easier access to residents of smaller towns and rural areas.

official policies (Spade 2008: 741). Specifically, the application of the 1920s legislation coincides with the granting of rights to social security, family allowances, food distributions, etc. The beneficiaries were required to provide official certificates from the registration offices to verify their civil status and their entitlement to any of those amenities (Skiadas 2005: 72) and "in this way, caretaking and surveillance are married" (Spade 2008: 743). Although the threatened penalties did not manage to enforce the civil registration laws at a catholic level, social welfare and other similar policies concerning the distribution of resources, especially in times of extreme poverty, were able to achieve this. According to Spade, such patterns are indicative of "the connection between data collection devised in population-level caretaking programs and systems of surveillance" (Spade 2008: 766). Indeed, the application of Law 2430/1920 and the systematisation of civil registration coincided also with the establishment of the General Statistical Service of Greece within the Ministry of National Economy in 1925.[80]

After the normalisation of the civil registration system, the character and significance of registration acts changed considerably. Birth certificates, which can be produced only through birth registration acts, became essential documents for gaining access to public services (health, education, etc.) as well as to apply for an ID card, which is the main means of identity verification at a national level. Through this process, civil registration that once concerned only a small percentage of wealthy families for inheritance reasons became essential for the wider population, since the increasingly centralised administration was impossible to navigate without civil registration certificates. Serving the dual purpose that Currah and Moore have analysed for birth certificates (both as records of facts and as a means to authenticate the identity of a citizen), registration acts had to include "fixed pieces of data" that can serve as identity indicators in past, present and future (Currah &

[80] Although some statistical services were already in function, the General Statistical Service, drawing upon the register offices' data, became the first institution responsible for the aggregation of demographic data and the creation of official statistics on a national level. Until today, in the form of an Independent Authority under the name Hellenic Statistical Authority (ELSTAT), it remains the state's main source for various kinds of population-level data and measurements.

Moore 2009: 126; Moore & Currah 2015: 63). Hence, any change to a birth registration act was considered so exceptional and significant for state affairs that it would be permitted, and this is still the case up until now, only through a Civil Court procedure.

Already from the first attempt to establish national civil registration in 1836, sex was included in the main identification parameters, and these were considered self-evident as well as stable enough to guarantee accurate lifetime identification (R.D. 20/10/1836). The relevance of trans critiques, discussed in chapter three, to categorisation as a normative process within state governance is evident (Hale 1998; Spade 2008; Meadow 2010; Currah & Moore 2009). Introducing sex as one of the indisputable and stable facts that characterise a person throughout their life mirrors the norms and expectations concerning sex attributes. It also reveals the conviction to present a symmetrically divided society along (among others) the axis of sex, even when that is contradicted by the endlessly emerging bodies and subjectivities that do not neatly fit into this schema. Accordingly, the classification of ambiguously sexed individuals became a terrain of state interest and, by 1856, "doubtful sex" (Mak 2012) was decided by specialists appointed by the local registrar under the template of hermaphroditism (Tzanaki 2018: 204).

According to Dimitra Tzanaki, the regulation of "hermaphrodite life" becomes central in a series of socio-political processes occurring in nineteenth century Greece, marking a paradigm-shift in terms of population governance (Tzanaki 2018). Specifically, her analysis suggests that, by the end of the century and with a variety of socio-political movements on the rise, the criminalisation of "moral hermaphroditism" becomes central in new technologies of governance aiming to classify, persecute and discipline all kinds of "degenerate" individuals who were thought to represent a tangible danger for public health and morality (Tzanaki 2018). Tzanaki traces this paradigm-shift through the study of Greek Legal-Medicine texts which have incorporated a variety of medico-legal imperatives of European (especially French) specialists in their formation of a new understanding of sexual, moral and mental health (Tzanaki 2018).

The legal texts that pertain to these procedures crystallise some of the most emblematic encounters of medical and juridical discourse. Tzanaki prioritises a reading of this process mainly concerned with the "arbitrary morality" constructed around and through a broader conceptualisation of "moral hermaphroditism" (Tzanaki 2018). Nonetheless, looking at the end of the nineteenth and mostly the twentieth century, I am more interested in the mundane tasks performed by Civil law jurists. That is, in the way the feverish engagement of Legal-Medicine, Criminology and other fields with "doubtful sex" translated into the sex classification practices at the heart of the Greek legal order, Civil law. In this vein, the rest of the chapter is dedicated to a critical reading of Civil law texts that formed the dominant paradigm of the legal management of "doubtful sex" in the law.

5.2. The Early Texts and the "Predominant Sex" Thesis

This section engages with some early texts that discussed the issue of sex (re)classification within the frame of hermaphroditism, aligning mostly with the "predominant sex" thesis as it has been described in chapter three. In these texts, we can see the underlying tensions between the supposedly self-evident character of sex classification and the practical elusiveness of its categorical definitions.

Before engaging with the texts from the early twentieth century, I will parenthetically analyse an earlier text titled "Elements of Civil Law" (Economides 1877), as it was highly influential in the debate on sex classification. The author, Vasilios T. Economides, was considered a prominent jurist of his time and, thus, this text continues to be cited more than a century after its publication. In this volume, in the "General Principles of Civil Law" section, there is a chapter concerned with the definition of natural persons in the law, where sex is included amongst other traits that constitute natural personhood. The text reads:

> *1) Sex.*

> *§17. Two genders[81] [γένη] exist, male and female; hermaphrodites, which belong to both, are of the predominant on them gender. As a general rule both sexes enjoy the same rights and are of equal capability, although in some women are inferior (Economides 1877: 68-69, my translation).*

One of the footnotes attached to this short paragraph provides more information about the meaning and origins of the used taxonomy. Economides cites the Roman *Digest* (also known as Pandects), as well as later Greek codifications of other Roman laws, as his primary sources (Economides 1877: 68, footnote 1). The *Digest,* which is quoted by Economides in its original form in Latin, states clearly that, in the case of hermaphrodites, the "predominant" sex prevails.[82] According to Economides, if there is doubt about which the predominant sex is, a medical opinion is required in order to decide[83] (Economides 1877: 69). Last, the author turns to the work of a German jurist (Eduard Sienbehaar) to clarify what is to be done in the case of a person born without external signifiers of any sex:

> *Some claim that the clergy should define the gender to be assigned! Some claim that such a person should only have the rights assigned to the human person in general and not those specifically given to men and women. The second opinion is of course more reasonable (Economides 1877: 69, my translation).*[84]

Such declarations without any reasoning are common in these texts as the invocation of an authority or the "givenness" of an idea is usually enough to justify

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[81] Economides (1877) uses "sex" and "gender" as interchangeable here, nonetheless the Greek word for "gender" (*γένος*) does not carry the connotations that came with the sex-gender distinction of the twentieth century (see Appendix A for terminology).

[82] *Quaeritur hermaphroditum, cui comparamus? et majis puto ejus sexus aestimandum qui in eo praevalet* (Dig. 1.5 L.10 as quoted by Economides).

[83] An Austrian case is mentioned as an example of such a procedure (Economides 1877: 69).

[84] Although, according to Tzanaki, the issue of "social and political death" of hermaphrodite life can be approached through such provisions that create categories of lesser citizens, I will not explore this argument as my focus here is on the definitional work of the text (Tzanaki 2018: 320).

a statement.[85] Economides' text is important not only because of its continuous influence but also because it combines two traditions that have been the pillars of Greek Civil law, that is Roman and German law. Economides, having studied in Germany himself, was using German elements in his work to complement the Roman and Greek legal traditions. Drawing from texts of the Roman and German legal system, this approach follows the "predominant sex" thesis, thus recognising the existence of hermaphrodites in their early conceptualisation, that is, as a mixture of the two sexes in a single body. The German civil law of the nineteenth century, which is used by Economides as a source, follows a procedure similar to that of Roman legal tradition. The individual was assigned with the "predominant sex" as decided according to the advice of the experts. In cases where "the sex characteristics are represented equally", Bavarian Law allowed the individual to choose between the two sexes under the precondition of permanence (Mak 2005: 201-202). In this text, as in most of this era, the character of sex seems to be apparent and doubtful at the same time. This contradiction, to which we will return, appears fundamental within sex classification in the law.

Moving into the twentieth century, in 1907, the first longer study in Greek law is published under the title "Hermaphrodites and pseudo-hermaphrodites in the legal science" by lawyer Alexandros N. Siatos (Siatos 1907). Siatos' (1907) text, although the most detailed of his time on the issue, did not have the effect or the citation frequency that might be expected for the sole legal study on the issue, as he was not a highly acknowledged scholar or judge.[86] Siatos structured the text in 11 short parts (27 pages in total), each of which dealt with different questions of Civil law that could be posed by the existence of hermaphrodites. Although Siatos uses Roman law as the legal base of his study, the taxonomy used is aligned with the medico-legal views of his period, which define as "true hermaphrodites" only the

[85] A definition given in another footnote states that "the words man and woman in the law refer to the male or female gender without a differentiation of age" (Economides 1877: 69).

[86] On the contrary, Economides' text, is cited throughout the rest of the twentieth century even though it does not acknowledge the medico-legal studies that already existed in Greece (see Kritsotaki 2013; Tzanaki 2018) and is not aligned with the contemporary medical opinion about the nature of hermaphrodites (that is the "true sex" dogma instead of the "predominant sex" dogma).

rare cases of co-existence of "male and female gonads" that is, testicular and ovarian tissue, referring to the rest as "pseudo-hermaphrodites" (Siatos 1907: 7).[87]

Siatos (1907) acknowledges some studies of Legal Medicine in his text and includes some exemplary cases[88] along with other sources[89] in the first and longest part of the text, which negotiates issues of marriage and engagement involving hermaphrodites. The rest of the parts are challenges posed to Civil law by hypothetical scenarios of legal complications due to hermaphroditism. Some of these questions are inspired by Roman law provisions (e.g. the ability of a male hermaphrodite to witness testaments) and others appear to be imagined by the author as legal riddles.[90] In the part of the text which considers the birth registration act of newborn hermaphrodites, Siatos engages with the category of the legal monster and, although he does not name the hermaphrodite as such, he

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[87] Greek studies of Legal Medicine included various taxonomic orderings translated from the works of European medical men but very few reported original cases, although they did include detailed translations of famous foreign cases of hermaphroditism (Georgantas 1885; Kallivokas & Potamianos 1899; Vafas 1903). By the beginning of the twentieth century, there had been only three official publications reporting on Greek cases of hermaphroditism (in 1896, 1899 and 1903) in Legal Medicine, although according to one of the most prominent writers of the field (Georgios H. Vafas) many cases have been examined without a following publication (Vafas 1903: 227).

[88] For example, a case treated by Georgios Vafas, a leading expert in Legal Medicine. Vafas received a letter by an Orthodox priest who was faced with the claim to re-baptise as male, a person that had already been baptised as female in childhood. The local doctor did not possess the expertise to decide on an extremely rare case of anatomical ambiguity, which was described in Vafas writings in detail (Vafas 1903: 244-247). The person was classified as a hermaphrodite by Vafas without clarifying the variation as "true" of "pseudo" since he was unable to verify the existence or absence of ovarian tissue (Vafas 1903: 247). Paraskevas (as was the individual's acquired name) was baptised and raised as female but had very ambiguous genital anatomy and a declared attraction towards women. When he turned twenty, he requested to be re-baptised in order to obtain a male name and live as a man (Vafas 1903: 247). This case is unique for its time not only in medical terms but also in terms of Orthodox dogmatic practices. After the expert opinion of Vafas, Paraskevas was indeed re-baptised making this the only official report of such a re-baptising found during the present research.

[89] Such as the minutiae of the Holy Synod (1887), which discuss the application for marriage license on the part of a man that "has lived until the age of thirty as a woman" (Siatos 1907: 8).

[90] For example, in the case of simultaneous death of parent and child, the hereditary rights depend on the legal age of the child. If the child is preadolescent, its death is presumed prior to the parent's while if adolescent its death is presumed later than the parent's death. Since the legal age for adolescence varied depending on the child's gender (twelve for girls and fourteen for boys), the author considers what should be done in the case of the death of a parent and a hermaphrodite child on the verge of this age limit (Siatos 1907: 16-17).

suggests that it is the same procedure that should be activated in case of any "unnatural creation" (*παρά φύσιν γέννημα*) (Siatos 1907: 24). That is, the existing legislation since 1856 (art. 67 of the 1856 Law on Registration Acts) allowed the Registrar to assign Legal Medicine experts in case of doubt about the newborn's nature. Siatos suggests, following Economides, that in case Legal Medicine professionals do not have a clear answer, the person should be granted only general legal rights and not those specific to men and women. Finally, a correction of the birth registration act is possible according to Siatos as it is a "matter of public interest" (Siatos 1907: 25).

The last theoretical text from the field of Civil law (specifically Family law) that will be presented in this part is found in a multi-volume work of the highly respected scholar Nicolaos P. Dimitrakopoulos (Dimitrakopoulos 1912).[91] Dimitrakopoulos engaged with the issue in the framework of marriage and specifically refers to hermaphroditism as a form of physical flaw that might intervene with a person's capability to consummate a marriage (Dimitrakopoulos 1912). Dimitrakopoulos (1912) follows the "predominant sex" dogma and uses the distinction between "true" and "apparent" (similar to pseudo) hermaphroditism as established by the dominant medical discourse of his time. Like Economides, Dimitrakopoulos ignores the Greek studies of Legal Medicine on the issue - citing directly works of European medical men - as well as Siatos' work, but does cite Economides' text. Specifically, he refers to other legal solutions (the 1856 provision on "unnatural creations"[92] or a consultation from the clergy) but, finally, he takes upon Economides' suggestion of granting general rights and not gender-specific rights in case that the "diagnosis of sex proves impossible" (Dimitrakopoulos 1912: 269). This re-reading of Economides' text completely changes the scope of its application, as the initial text

[91] Dimitrakopoulos studied in the Athens Law School, worked as a lawyer, engaged in a political career and served as a Minister of Justice. His legislative work, his political and ethical stance and his very broad scope of legal knowledge gave him a "mythical" status within Greek legal theory (Karamitzos 2019).

[92] He rejects this solution because be believes the apparent scope of the provision are monsters, thus, confirming once again that hermaphroditism did not fall under the purview of teratology in this era.

referred to individuals “born without external signifiers of any gender” while Dimitrakopoulos uses it to resolve the issue of extreme ambiguity or even “perfect hermaphroditism” (Dimitrakopoulos 1912: 269).

Overall, what we see in these first texts is a general aligning with the “predominant sex” thesis and a tendency to restrict the possibility for a mixture of sexes only to rare cases of “true/perfect” hermaphroditism. The “givenness” of sex is the underlying assumption that is preserved intact regardless of the demand for legal response to a reality that appears somewhat different. Moreover, there is an unsystematic and sporadic connection with Legal Medicine, which, as is explored in the next section, resulted in a series of conflations and taxonomic ambiguities within the jurisprudence of the following years.

5.3. The Published Cases and the Beginning of Taxonomic Conflations

In this section, by reading cases of sex (re)classification published in legal journals, I follow the interpretative workings of Civil law scholars as they proceed to compose a set of regulatory discourses concerning the law’s sex imperative. I suggest that the undertaken taxonomies and analysis in the field of Civil law attempt to present a simplified reality through the subsumption of individuals in categories of standardised classification through a set of strategic (re)interpretative gestures.

The first case found in a Greek legal journal is a summary of a Swiss Civil court decision concerning the change of legal status of an individual from male to female (Themis 1946: 406). The decision, which accepted the applicant’s claim, is very important, as through its translation and publication in Greek, it became the precedent used by Greek Civil courts in this period. It was reprinted under the description “Hermaphrodite - sex change due to surgical procedure - correction of sex and name in civil registration act”. Nonetheless, going through the translated decision, the individual is not referred to as a hermaphrodite in the text. Looking into other sources, I confirmed that this is actually the case of Arlette Leber, known as one of the first transsexual women in Europe to have her civil status changed

after several surgical procedures (Meyerowitz 2004: 48, De Savitsch 1958). The labelling of Leber as a hermaphrodite in the Greek legal context is indicative of a series of taxonomic conflations that begin in this period and continue in the legal texts of the second half of the century.

The translated decision describes Leber as having "the body of a man and the psychical condition of a woman", thus, suffering from a great imbalance and an inability to function normally in society (Themis 1946: 406). After a series of surgical procedures, Leber acquired female physical appearance and applied for the amendment of her legal status, which was granted by the competent court, following what would now be considered a progressive approach:

> *This inclines us to attribute to the psychic element, in the determination of sex, an importance at least equal to that of the physical element... It is not only the body which determines the sex of the individual, it is also the mind. When there is a discord between body and mind, one must see which of these two elements predominates (Themis 1946: 406; English translation from De Savitsch 1958).*

Here the power embedded within interpretation rises over the body of the text towards two different directions. First, the Swiss judge (following specific sexological imperatives)[93] re-reads sex as having a different meaning compared to other texts, which saw specific anatomical topologies as the sole truth-bearers of sex within a body. Even the cornerstone of sex assignment, the "predominant sex" dogma, seems to be relativised here. The "predominance" that must be confirmed

[93] The court found that Leber's claim could be denied on the grounds of being an "invert" if she had been classified as "psychosexual hermaphrodite" (*hermaphrodites psychosexuels*). Since her diagnosis defined her a "congenital invert" (*invertis constitutionnels*) it followed that:
(…) the female feelings have their source in the depths of their existence and are independent of external factors. They appear in very early age and are so powerful that their [the individual's] will is unable to control them (Themis 1946: 406, my translation).
This taxonomy derives from the sexological studies of the turn of the century whose main subject until that moment has been the "sexual invert" in her/his numerous variations (Dreger 1998: 135; Prosser 1998: 116). The emphasis of the "congenital" character of Leber's "inversion" can be seen as a trace of the -later to become clear- differentiation in the legal treatment of intersex (under the label of hermaphrodite) and trans (under various labels) individuals (Sharpe 2010: 98).

is between physical and psychical elements of sex identification and not between conflicting anatomical signs. This idea, in a de-medicalised version, echoes in current legal conceptualisations of gender identity as a person's "deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth" (Yogyakarta Principles 2006, introduction, footnote 2).

The second interpretative gesture is the Greek jurist's translation of the decision that re-reads the (trans) identity of Leber, classifying her as a hermaphrodite. This obviously implies a completely different concept of hermaphroditism ("a discord between body and mind") than the one found in previous texts but also shifts the understanding of how a body is sexed:

> *We should classify L., who is neither a perfect man nor a perfect woman, as the sex to which he [sic] approximates the most (Themis 1946: 406, my translation)*

These gestures suggest that Leber's case, and the way it was published and used in the Greek legal order, is exemplary of the instability of sex classification in the law, as well as of the power of the interpreter over the categories used in classification.

In the same year, a related Greek Civil Court decision (483/1946 First Instance Court of Serres) was reprinted in the same journal. In this decision, the Greek First Instance judge came to accept the claim of a person, characterised as a hermaphrodite, to change his legal status from female to male by amending the birth registration act (Themis 1947: 27). The Leber case was not used as precedent in the trial (it probably had not been published when this case was discussed) but it is mentioned in the publication as a comment. In the same footnote, there is a detailed description of the (unlike Leber's) ambiguous genital anatomy of the applicant, which was "perfected" by surgical intervention at the age of twelve.

> *Accordingly, in cases of pseudo or true hermaphroditism (…) the hermaphrodite is classified according to his* [sic] *predominant sex ("qui in*

> *eo prevalet"), as anyway applied until now, according to the principles of Roman Law (Themis 1947: 27, my translation).*

Even with Roman law safely paving the way concerning how to regulate hermaphroditism, in this historical encounter of a Greek judge with an ambiguously sexed individual, the question of sex definition in the law seemed inevitable.

> *The current Civil Code (2250/1940) does not introduce anywhere in its provisions an explicit division of genders [γενών] (namely a sex division of natural persons as defined by articles 34-60), nonetheless from its overall spirit it is clearly deduced that only two natural sexes are accepted by it (Themis 1947: 27, my translation).*

This sentence, which will be repeated *verbatim* in later legal texts, is emblematic of the work that is performed by interpretation but, even more so, of the way a legal order is gendered according the norm it codifies. As suggested in chapter three, the gender *status quo* as part of the set of norms, which, following Foucault's thought, is connected with each legal system does not rely necessary on explicit invocations within the text of the law (Foucault 2003: 55). Nonetheless, with this sentence, the judge pulls the norm from the background to the foreground, not to question it but to reify its omnipresence and to create with his own text a new, more stable, grip for future readings of gender as a category in the law.

In the following years, two similar cases were published following the legal path of decision 483/1946. Decisions 7116/1948 First Instance Court of Athens (Themis 1948: 840) and 186/1949 First Instance Court of Ioannina (EEN 1950: 217) accepted the claims of two applicants to amend their birth registration acts, and, thus, change their civil status from female to male. The applicants are characterised as hermaphrodites but neither of the published decisions incudes details about their bodily anatomy, which was discussed in court and "proved" by the means of medical reports. Both judges use decision 483/1946 as precedent, as well as highly respected Civil law volumes (e.g. Economides' text) to establish a legal justification.

Once again, there is a justification not only concerning the management of hermaphroditism but also the gender imperative of the Greek Civil law in principle.

> *Concerning gender, the Civil Code recognises only two sexes, man and woman, as it can be deduced from its overall spirit (Themis 1948: 840, my translation)*
>
> *Indirectly, from the articles 34-60 of the Civil Code on civil status, it can be concluded that it (…) recognises two sexes, those of male and female (EEN 1950: 217, my translation)*

This conclusion is carried in the texts of Civil law throughout the century usually citing several previous texts (such as these two decisions) that have used the same argument. Again, all of them find their grounding in earlier texts of Civil law, where other men of science have declared *their* equally self-evident truth about the world (Dreger 1998). These truths are declared in a simple, straightforward way, as seen above without any hint of doubt or need for further analysis. After all, one the most important sources used *as* justification in these decisions is Economides' "Elements of Civil Law" and its solid argument: "Two genders exist, male and female" (Economides 1877: 68).

What should be noted is that these texts are situated in a period marked by an acceleration of "sexual science" and the rise of new identities within and across the fields of Sexology and Psychology (Prosser 1998b). These new types of individuals, as Foucault has shown, emerged within the realm of the juridico-medical and, especially, through the incorporation of psychosexual orderings in the fields of Criminology, Legal Medicine, Medical Jurisprudence etc. (Foucault 1978). In this process, Foucault names interpretation as one of the methods of sexual science to constitute the "sexual confession" of the individual in scientific terms (Foucault 1978: 67). According to Foucault, the truth about the subject's sex was "constituted in two stages" - that of the confession and later its "decipherment", which completed the truth *through* interpretation (Foucault 1978: 67).

> *The one who listened was not simply the forgiving master, the judge who condemned or acquitted; he was the master of truth. He was a hermeneutic function. With regard to the confession, his power was not only to demand it before it was made, or decide what was to follow after it, but also to constitute a discourse of truth on the basis of its decipherment (Foucault 1978: 67).*

The power here resides largely in the hands of the interpreter, who, in this case, would be the sexologist, the psychologist or some other medical or medico-legal professional. But this is not the "truth" that reaches the Civil court, as there are different hermeneutic workings to be performed there.

The "deciphered" experience, now dressed in medicalised terms and assorted in proper categories by the medical scientist, has to be re-read by the jurist to enter the field of Civil law. The Civil law jurist engages in a different kind of interpretation of previous legal texts, as well as the given diagnosis, according to demands of his field. This is the core of my argument concerning sex classification in the law during this era. The seeming contradiction, mentioned earlier, between the "given" character of sex and the demand for judicial resolution over increasingly more cases, which implies ambiguity and instability, was tackled by Civil Law jurists in a very specific way. What we see in the published cases and texts of this period is that, while the corresponding studies of medico-legal sciences are "discovering" all kinds of "sexual inverts", the Civil Law logic is on a parallel path of simple truths and common knowledges. Namely, there seemed to be no intention on the part of the First Instance Civil courts to enter the labyrinthine field of sexology and engage in explicit classifications of "sexual inverts". Similarly, in Civil Law theory, the line that dominated was one aiming to preserve the supposed simplicity, even with its supposedly rare exceptions, of sex classification. The brief, if any, reference to Greek or foreign medico-legal literature served mostly to provide the jurist with the appropriate nomenclature and the impression of an issue that can be confidently resolved.

This also confirms the value of my methodological suggestion to study the issue of sex classification in the law with a field focus different than Legal Medicine, Criminology and similar fields. In doing so, I offer a complementary view of the complex image within which we see two different tasks executed by men of medical/medico-legal science, on one hand, and Civil law jurists on the other. As implied in the analysis of the former corpus by contemporary scholars, Greek Legal Medicine and Criminology describe individuals as fascinating and dangerous in their anomaly and its moral, political and psycho-sexual expression (Kritsotaki 2013; Tzanaki 2018). Holding a microscope to their irregularities in order to classify them in complex orderings, these fields perform a gesture a lot like pinning an insect in a display case. At the same time, Civil law scholars describe individuals as easily read and identified, constructing a population manageable in its regularity. Much like holding a kind of homogenising filter over them, it allows for the transfer of a complex reality in an evenly gendered legal order aligning with the Greek state's need for standardisation and citizen legibility.

In any case, whether choosing to ignore or scrutinise doubtful sex, the conviction that the givenness and simplicity of sex classification of individuals (and populations) in two mutually exclusive categories was never thought to be failing. As Dreger writes about the management of hermaphroditism in the medical sciences:

> *It is truly remarkable that in the midst of all the swarming doubt and sexual slippage, medical men - even those intimately familiar with hermaphroditism - managed to maintain the unflagging belief that there were two well-delineated sexes. Yet, as we have seen, paradoxically, the whole medical approach to hermaphroditism was imbued with the assumption that there did exist two distinct sexes and only two sexes, and that, accordingly, each body ought to be limited to one, in theory and practice (Dreger 1998: 109).*

Similarly, in the Greek legal sciences, hermaphrodites and their cases are described in a way that came to sooth the reader/jurist that we can still all be divided by the

axon of the two anatomical sexes. To that end, the slight hiccup of hermaphroditism or other gender-crossing experience could be managed within the current gender classification system without causing serious friction in the foundations of the paradigm.

This chapter has provided an understanding of the engagement of Civil law jurists with sex classification as part of civil registration during the first half of the twentieth century. Civil registration has been analysed as a process that claims to depict individuals and populations and, though this claim, proceedes to construct them. In this vein, one of the main aspects I have stressed is the tention between the self-evident character of sex taxonomies and its interuption by the reality of gender variance, which, in this period, is understood only in the frame of hermaphroditim ("true" or "pseudo/apparent"). My main argument is that this tention was overcome in the field of Civil law by a series of interpretative gestures that supposedly allowed a more accurate registration of individuals as parts of a natural taxonomy. Civil law scholars, following the "predominant sex" dogma, regardless of the absolute vagueness of its criteria, created a simplified version of gendered identifications. Embarking on an entirely different route than Legal Medicine, they upheld the "givenness" of sex classification in the law, achieving the standardisation of a broad range of experiences (as seen in the case of Arlette Leber) under the paradigm of hermaphroditism.

These juridical interpretations of both medico-legal terms and foundational concepts by Civil law jurists continued to constitute a significant set of regulatory discourses in the second half of the century. The beginning of the taxonomic conflations and porousness witnessed in the early texts of the century (wherein the limits of hermaphroditism vary to significant degrees depending on the interpreter) became more intense and produced tangible results in the following years. In the second part of the century, as will be established in the next chapter, the increasing visibility of cross-gender identification and the emergence of trans subjects (under different nomenclature such as *transsexual, travesti* etc.) in the social realm was

followed by an intensification of the hostility within such discourses and an effort towards the erasure of such subjects from the field of Civil law.

Chapter 6. Sex Classification in the Twentieth Century (II)

The second half of the twentieth century brought about many changes that significantly influenced both theoretical legal engagement and judicial practice concerning sex classification. On an international level, the emergence of new gender identities as well as the development of new medical technologies changed the landscape of disciplines engaging with gender and sexuality (e.g. Sexology, Psychology, Medical law, etc.). Moreover, on a politico-legal level, the creation of the European Community/Union and its institutions (especially the European courts) structurally changed the modes of legislating and litigating about issues of gender and sexuality on an international level. At a national level, various historico-political factors that could not be listed here in detail influenced sexual politics during this historically dense period.[94] By the 1980s and especially in the 1990s, trans-feminine individuals[95] (under the nomenclature of the era) were increasingly visible in underground subcultures, popular culture and, to some degree, in activism and political groups (Papanikolaou 2018).

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[94] Painting with a very broad brush, during the Civil War (1946-1949) that followed the Second World War and the German Occupation, any radical movements formed in the previous years (such as women's militant groups within the Resistance) were violently dispersed (Stamiris 1986: 105). After the end of the Civil War, new mobilisations of radical politics with gender claims formed slowly, only to be violently supressed once more with the rise of the Colonel Junta in 1967. The seven-year Colonel Junta (1967-1974) and its politico-legal aftermath, suffocated feminist and sexual-minority expression and organising in times of an international explosion of such mobilisations and theorising. After the establishment of the first post-Junta government, a variety of political actors claimed breathing space, among which the Liberation Movement of Greek Homosexuals (known with its Greek acronym *AKOE*) created in 1976 that marked the first steps of the sexual minorities' movements in Greece (Theodorakopoulos 2005). The 1980s saw a re-birth of radical feminist and –in a somewhat lesser degree- sexual minorities' politics as well as a parallel presence of institutional feminism in parliamentary politics. This period was followed by another decline in feminist and LGBT political presence during the 1990s (Mihopoulou 2006b).
For more discussion on the history of feminist movements in Greece, see Avdela & Psara 1985; Stamiris 1986; Mihopoulou 2006b; Salimba 2019. For more discussion on the history of LGBTQ+ politics in Greece, see Faubion 1993; Theodorakopoulos 2005; Riedel 2005; Antonopoulos 2019; Apostolleli & Halkias (eds.) 2012; Eleftheriadis 2015, 2017. For a description of the socio-political and legal life of *travestis* in Athens during that era see Revenioti 2011; Vakalidou 2011.

[95] Trans men were not visible in the socio-political sphere at the time as such.

Chapter six follows the debate on sex classification in the legal terrain during this period. The first section covers the debate within the field of Civil law concerning gender (re)classification as part of a person's civil status and a substantive requirement for legal marriage. Hermaphroditism continues to play a significant role in facilitating the refusal of the dominant legal discourse to recognise emerging trans identities but also, at the same time, enabling gender-variant individuals to navigate legal reality under its categorical disguise. Entering an era wherein "travestis" and "transsexuals" were increasingly socially legible, I examine the negation on the part of Civil law scholars to include transsexuality in the sex classification debate. This negation is engrafted with an increasing hostility that is clearly articulated in some of the texts.

In order to confirm the intentionality and constructedness of this absence of transsexuality and conceptualise it as a purposeful erasure, I read the Civil law debate in proximity with texts from other legal fields that confirm the entanglement of transsexuals/travestis with legal apparatuses. In this vein, the second section is compiled by texts from Criminal and Medical law, such as criminal cases found in the Hellenic Police journals. These archival fragments not only further my argument about the intentionality of this erasure but also tap into the debate concerning the legality of "sex change" surgical procedures. More importantly, they suggest that, in this era, the sex-changed-person becomes a subject placeholder in order to enable the regulation of transsexuality without commanding its legal acknowledgement.

Finally, in the last section of the chapter, I will engage with two alternative approaches concerning legal issues of cross-gender identification, which, at the time, were cast to the margins of the main debate. The work of two Greek legal scholars (Giorgos Dokoumetzidis and Theophano Papazisi) is analysed not only as a precursor of contemporary discussions on gender identity but also as an indicator of the political nature of the response to sex membership claims within a legal order (Hale 1997a; Bettcher 2014).

6.1. Civil law

6.1.a. Sex Classification – Civil Registration

As seen in the previous chapter, the publication of Arlette Leber's case (as a hermaphrodite case) was of crucial importance for the management of legal gender. The fact that the argument of the Swiss court (that the psychic element can overrule anatomy) lived, even shortly, as precedent within the Greek legal order seems almost like an accidental "slip".[96] This section traces the overall stance of Civil law scholars on sex classification and the way it moved away from this argument and solidified into a more strict traditional model.

The first text I consider important for its input on the matter is found in a multi-volume work titled "Interpretation of the Civil Code" (1952) which consisted of contributions from many prominent scholars of Civil law (Poulitsa *et al* 1952).[97] The issue of hermaphroditism is once more examined within the interpretation of the articles describing personhood. Although the author (Pr. Ioannis Sontis) follows the path[98] of previous texts, he chooses to emphasise his distancing from some of the principles of these texts:

> *Which one is the predominant gender should be judged based on bodily constitution and only in the alternative on the psychical disposition of the hermaphrodite (the published [...] decision of a Swiss court is not sufficiently accurate in this aspect) (Sontis 1952: I A Δ2, my translation).*

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[96] One that was possibly allowed by taxonomic conflations, lack of experience on part of the Greek Civil law scholars, as well as, from the *no-questions-asked* respect many of them showed towards the authority of legal arguments imported by European legal orders.

[97] There is an earlier text within a volume titled "Legislation Regarding Registration Acts" (1951), which includes summaries of the earlier decisions mentioned in the previous chapter. This text, as others in its subfield, has less philosophical and more technical character compared to texts of General Principles of Civil law. The author, thus, instead of making any declarations about the nature of sex or gender, merely presents these decisions concluding that in such cases (that is, of hermaphroditism) the provision used for the correction of mistaken age is by analogy applicable in the amendment of mistaken sex classification (Karvelis 1951: 167).

[98] Meaning a combination of references to Roman law, German law, the cases published in Greek, the "predominant sex" dogma and the suggestion to grant only general rights in case of absence of external sex characteristics (Sontis 1952).

After this text and the historical shift I claim it connects with - that is, the emergence of transsexuality as a culturally legible reality - both legal theory and practice would stay in line with Sontis' argument for decades. The argument of the Swiss court in Leber's case (that the psychical element is as important as the physical when assigning gender) would not be accepted again throughout the rest of the century. What has entered through the characterisation of the Swiss decision as "not accurate" is a hint of suspicion, which would escalate to outright hostility, concerning the possibility of a psychical gender disposition that might lead to a claim not properly grounded in a hermaphrodite bodily anatomy. In other words, suspicion that hermaphroditism might be opening a window for transsexuality in the law.

In the years that followed, more volumes of "General Principles of Civil law" included similar interpretations of sex in the law (Tousis 1962; Gazis 1970; Papahristou 1979; Spyridakis 1985). Following the same line on sex classification, these texts remained generally aligned with the understanding of a self-evident sexual dichotomy within Civil law with the sole exception of hermaphroditism, which was addressed through the "predominant sex" thesis. One text that stands out in its absolute wording dates in 1970 and was written by Andreas Gazis who was not only a much-respected scholar, judge and politician but also was considered to have played a significant role in the attempts for legal equality between men and women in Civil law.[99] Gazis writes:

> *Hermaphrodites do not exist, and sex can never be altered, by natural or surgical means. Only in case of mistakenly determined sex is it possible to*

[99] Gazis was placed as head of a legislative committee in 1975 (later known as "the Gazis Committee"), which was assigned with the task of reforming traditional Greek Family law that was until then heavily disadvantaging women and their position in the marriage. The reform came seven years and two committees later (Law 1329/1983) and was considered a great victory for the women's movement that had remained politically engaged throughout the years that the reform was negotiated claiming structural changes that were not endorsed by the Gazis Committee (Mihopoulou 2006a). Viewing the Gazis Committee, which unlike the next committees did not include representatives of women's political groups, as the first step to the Family law reform, fortified Gazis' reputation among other men of legal science as some kind of pioneer fighting for gender equality.

> *correct the name, registration act etc. The determination of sex is made biologically, while the psychical disposition of the person is irrelevant (Gazis 1970: 11, my translation and emphasis).*

By the time this text is written, trans women (known under different nomenclature at the time) are a recognisable figure in the Greek context (Dokoumetzidis 1997) and, by accessing medical procedures, they are redefining the meaning of "predominant sex" or plain "sex" in the law. The paragraph is, thus, structured not as a set of principles or a kind of taxonomy but as an emphatic negative response to an emerging claim. I suggest that it is a clearly articulated denial towards any suggestion of gender transgression, not just in the law but also ontologically, in a way that addresses specific legal and social claims. Although by denying the existence of hermaphrodites, the text seems to sit rather oddly among other texts of Civil law which seem to have common classifications, narratives and tone, and this could be seen as exemplary of the change happening in this period within legal theory and practice. That is, a turn towards an emphatic defence of the gender order against increasingly visible social phenomena of sexual and gender variance.

In 1973, decision 68/1972 First instance Court of Drama is published (Nomiko Vima 1972: 1085) concerning the amendment of the civil status of a "female pseudo-hermaphrodite", assigned male at birth. The judge granted the claim according to the rationale of several texts that have already been analysed making an explicit reference to the post-operative genital anatomy of the claimant, which seems to be an individual who would be described as intersex now. In the justification of the decision, what becomes explicit is the acceptability of genital surgery (and by result, sex re-classification) only within a process of "naturalisation" of the body (Sharpe 2010: 98):

> *Thus, it is not impossible to mistakenly register the predominant sex, a fact that is revealed on a later age. In this case, even more so when one sex has fully prevailed over the other, even by a surgical procedure corrective of nature's flaws, it is allowed to correct the possibly mistaken, regarding the*

> *sex reference, birth registration act […] (Nomiko Vima 1972: 1085, my translation and emphasis).*

As Alex Sharpe has noted, the legal treatment of the transsexual in many legal orders would prove significantly different by the legal treatment of hermaphroditism and, later, intersexuality (Sharpe 2010: 98). Although both categories are thoroughly pathologised, their different legal treatment has been established, as Sharpe claims, through the distinction "between an understanding of sex reassignment surgery as artifice (transsexuality), and an understanding of sex reassignment surgery as the correction of nature's 'error' (intersex)" (Sharpe 2010: 98). That is, surgery is viewed as a means to "naturalise" doubtfully sexed bodies of intersex individuals but also to "denaturalise" the originally normally sexed bodies of trans individuals (Sharpe 2010: 98). Thus, through a single gesture, both the forceful "corrective" surgeries on intersex individuals and the denial of trans (even post-operative) gender recognition can be justified in the dominant legal discourse.

Indeed, the reference to the ambiguous sex of the body as "nature's flaw" is carried into other texts, such as a monograph including the interpretation and litigation-analysis of the Civil Procedure Code, widely used by jurists (Vathrakokoilis 1996) and an interpretative volume on registration acts and other civil registration issues (Soldatos 1998). Under the titles "change of sex and name" and "amendment of name in cases of sex change" accordingly, the two texts repeat *verbatim* the sentence quoted above (Vathrakokoilis 1996: 506; Soldatos 1998: 116). What is striking in both texts (as in all the texts analysed in this part) is the complete absence of any reference to transsexuality as a contrast counterpart in the implicitly invoked "intersex/transsexual dyad" (Sharpe 2010: 98). This is precisely the core of what is argued here, that is, the hostility of the specific legal environment towards trans subjectivity and the attempt to dissipate the reality of trans experience from Civil law theoretical debates.

Notably, in 1980, a German court decision (BVerfG 49, 286 [11.10. 1978]) is translated and published in a legal journal under the description "Gender alteration of hermaphrodite - Amendment of registration in birth registration books" (Nomiko

Vima 1981: 612) As with the Swiss decision in 1946, research shows that the Greek jurist translated a piece of transsexual jurisprudence as a case of hermaphroditism. It is the review of a petition brought by a post-operative trans woman in front of a Federal Constitutional Court in 1978 (Knott 2010: 1004-5). After the First Instance Court denied legal recognition of her gender, the German Constitutional Court accepted her claim, which was considered a historical ruling as it led to the first "Transsexual Law" in Germany two years later (Knott 2010: 1004). The translation in Greek reads:

> *The claimant [the word is used in male grammatical form in Greek] works as a hospital nurse and belongs to the group of individuals that, due to (external) existing characteristics, are registered as male, but later feel in every sense belonging to the female sex and already - by adjusting their external demeanour - lead the life of a woman, but are legally recognised as men (Männliche Transsexuelle) (Nomiko Vima 1981: 612, my translation).*

Regardless of the hint in the parenthesis ("Männliche Transsexuelle") left untranslated in the Greek text, the claimant is characterised throughout the translation as a hermaphrodite, adding to the taxonomic conflation of this period in Greek Civil law circles. As in the case of Arlette Leber in the previous chapter, the transsexual is inserted in the Greek legal order transmuted into a hermaphrodite in what seems like an almost stubborn tactic on the part of the Civil law jurists.

Even if the international developments[100] on the issue were unintentionally ignored or accidentally misinterpreted in the past, by the time these texts were written,

[100] By the end of the century and during these discussions were taking place within the Greek legal theory, the international debate on legal gender recognition was intensifying. Driven by the refusal of several national legal orders to recognise the post-operative sex of trans litigants and under the shadow of the *Corbett vs Corbett* case (see footnote 115) that had become the rule for such non-recognition, a heated legal debate was taking place within the European courts. Although, this debate transferred into the national legal orders and especially those of the litigants involved, it did not seem to be reflected accordingly in the Greek legal theory of the twentieth century. The vast majority of the studied texts don't seem to acknowledge the rulings of European courts throughout the second half of the century. In the rare cases that Greek legal scholars tried to incorporate such jurisprudence in their analysis (e.g. Vidalis 1996) it was in a peripheral way and did not significantly

transsexual women had gained notoriety in Greek popular culture and were visible in the social sphere but remained conspicuously absent from this debate. In the next section, I make a brief passing from Family law in order to further trace and clarify the mechanics of this curated absence through the debate on marriage. Although I will not engage with the right to marriage *per se,* I briefly engage with its connection to sex (re)classification.

6.1.b. Marriage and the Person-Who-Changed-Sex

Other than civil registration itself, sex classification has also been discussed for the purposes of legal marriage as part of the debate within Family law concerning sex-difference as a marriage precondition. Although same-sex marriage is often studied under the purview of the legal management of (homo)sexuality, it is the same field that became a site of negotiation for gender variance.

In the Greek legal order, the consensus throughout the decades was that sex difference is an omitted, but self-evident, requirement for legal marriage (Balis 1962: 42; Tousis 1970: 39; Kostaras 1974: 153 and footnote 7; Deligiannis 1986: 54; Koumantos 1988: 39; Vathrakokoilis 1990: 48; Kounougeri-Manoledaki 1998: 65).[101] It should then follow that its lack would result in the marriage being void.[102] Nonetheless, a plethora of authors supported (some very firmly) that the lack of sex

shift the overall discussion. In the Greek European law field itself, it is only by the end and during the turn of the century that some of these rulings' echo reached the relative national literature.

[101] Although the Greek Civil Code did not explicitly include sex difference in the substantive requirements for legal marriage, the vast majority of Civil law scholars agreed (and still do) that the requirement of sex difference can be deduced by the spirit and overall phrasing of Family law provisions (Kounougeri-Manoledaki 2016: 61-62 and footnotes 1-7). During that period, most of the Civil scholars writing on the issue, with very rare exceptions such as Vidalis (1996), either had moral and legal objections or just considered same-sex marriage as a paradox (Papazisi 2000: 125 and footnotes 29-30). The inability, to ground legal marriage without sex-difference in the existing legislation has been admitted even by authors who do not contest the idea of same-sex marriage on principle (Papazisi 2000: 125).

[102] Under Greek Family law, a legally flawed marriage might be void (null), voidable or non-existent (CC art. 1372-1385). A marriage is considered void if one of the substantive requirements (consent, marriageable age and legal capacity) is flawed or not present (CC art. 1372). Still, its nullity can be remedied, under conditions, before it is declared void by court order. According to CC art. 1374-1375 a marriage is voidable in case it was conducted under threat or deceit (concerning the person's identity). Last, if a marriage lacks the proper ceremonial formalities (initially these could be only religious) then, and only then, it is considered non-existent, it produces no legal effects and requires no official declaration of its nullity.

difference leads to a non-existent, instead of a void, marriage. This irregularity has been justified in various ways,[103] but what is more important for the present analysis is that some of the authors engaged directly with the effects of sex and gender variance on the marriageability of the individuals.

Hermaphroditism was seen as a ground for possible nullity. Nonetheless, the method of application of this principle remained overall vague (Tousis 1970: 40; Vathrakokilis 1990: 48). Some authors concluded that, in such cases, the marriage is valid if the predominant sex of the hermaphrodite is the opposite of the other spouse's (Deligiannis 1986: 181; Kounougeri-Manoledaki 1998: 65). Nonetheless, if the sex changed to that of the other spouse during the marriage, it has been claimed that the marriage becomes non-existent *ex tunc* (Kounougeri-Manoledaki 1998: 65).[104]

In trans legal theory, Sharpe has theorised legal marriage as a "limit" to the legal recognition of trans legal gender, one that is dictated by the underlying homophobia within the law and the "perceived proximity of transgender to the homosexual body" (Sharpe 2002: 89-119). In this debate, the legal anxiety caused by the possibility of trans marriage needed to be dovetailed with the overall practice of not naming transsexuality in the law, resulting in improvised theoretical positionings.

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[103] The legal inconsistency of declaring same-sex marriage as non-existent instead of void was directly addressed in an article published in 1974 under the title "The non-existent marriage of persons of the same sex" (Kostaras 1974: 152). The author (G. Kostaras) recognises that this position, with which he obviously agrees firmly, is not backed up by the letter of the law and has been supported in the literature in a way that is "logical and moral" but not actually legal (Kostaras 1974: 153). By referring to Canon law and its clear references to "man and woman" in marriage ceremonial texts (civil marriage was not yet an option in Greece), the author concludes that lack of sex difference constitutes a flaw in the ceremonial formalities, which constitutes anyway the only reason in the law leading to a non-existent marriage.
Other authors supported that sex difference is a substantive element of the concept of marriage as it is founded in the law, thus, making same-sex marriage simply not a marriage (Deligiannis 1986: 54; Koumantos 1988: 39). Alternatively, in other texts the non-existence of such a marriage is not justified in legal terms (Vathrakokoilis 1990: 48) or is just grounded on its own givenness (Balis 1961: 42).

[104] This difference becomes crucial when the couple has had children (Kounougeri-Manoledaki 2016: 62 and footnote 4).

> *Problems for the marriage can be created in cases wherein the morphology of the body classifies a person as one sex, resulting in the corresponding registration act, but their psyche classifies them as the other sex (transsexualité). In these cases, which often are followed by surgeries to alter some of the external body traits, the question raised is whether this person can be considered to have changed sex and whether they can be married with a person of the sex they previously belonged to. According to the present legislation of our country, such a sex change does not seem to be possible other than in cases of hermaphroditism and the initially mistaken registration act. Hence, the marriage of a person, which feels as belonging to a sex different than the one indicated from the beginning by their bodily traits, with a person of their "initial" sex is impossible since it would be considered as a marriage between persons of the same sex (Koumantos 1988: 39, my translation).*

Although the French term "transsexualité" in the parenthesis, as well as the distinction from hermaphroditism, make clear that the issue discussed is transsexuality, the author refuses to articulate the term in Greek, thus, resorting to this long paraphrasing definition. Even so, this can be claimed as an almost clear recognition of transsexuality as a legal reality. Contrary to what is suggested theoretically in the above excerpt and while other European legal orders were not allowing marriages after sex change at the time (Sharpe 2002), it appears that such marriages were conducted within the Greek legal order. Note how this is described in Family law scholarship:

> *If a person changes sex through a surgical procedure before getting married, it should be accepted that they are able afterwards to enter a valid marriage with a person of different - in relation to their present condition - sex (Kounougeri-Manoledaki 1998: 65, my translation).*

A categorical twist takes place here with both hermaphroditism and transsexuality being evaded and the subject in question gradually becoming the person-who-changed-sex. The practice of "sex change" itself, and not the diagnosed "condition"

it supposedly comes to resolve, embodies here the categorical imperative of the subject in the law.

Indeed, in 1997, Article 14(6) of Law 2503/1997 “On civil status acts”, which included the first explicit reference to such an issue in a legislative text was articulated the same way. That is, allowing the amendment of the birth registration act in the case of “sex change,” without any further explanation. The centrality of the “sex change” operation instead of the diagnosis (transsexuality, hermaphroditism etc.) provided a loose margin of appreciation that allowed transsexuality not to be named but to be included within the regulatory scope of the law. The unstable definition of the subject in the law throughout these texts shows the way in which the concept of “sex change” levitated between hermaphroditism, as a recognised condition by the law, and transsexuality, as the imprint of a phantasmatic presence, a legal echo of an unwanted (for most legal scholars) reality.

In other words, my argument in this section has been that the absence of trans identities, as such, in Civil law, does not reflect a literal absence of trans engagement with the law but an unwillingness of Civil law scholars to introduce trans identities, which circulated in the social sphere, in legal discourse. This argument can be grounded even more firmly by a methodological detour through Penal sciences that will confirm the ordinary encounter of gender variant - and more specifically trans-feminine - individuals with Criminal law appendages and, subsequently, with the Greek legal order as a whole.

6.2. Criminal law

6.2.a. Criminal Cases – Police Periodicals

In this section, in order to confirm and further my argument about the systematic concealment of the transsexual/travesti identities by Civil law scholars, I turn to specific parts of Criminal law processes that reveal traces of the casual interaction between state apparatuses and gender-variant individuals.

The structural violence and exclusion of gender non-conforming individuals in various socio-legal contexts has often led not only to a criminalisation of such identities *per se* but also to a marginalisation and, therefore, an increased implication in illegal or risky practices (Spade [2009] 2015). The Greek context is no exception in this aspect. Although information is scarcer about the beginning of this period, by the 1970s the majority of trans women were working as sex workers and were engaging with other illegal activities within broader outlaw networks (Dokoumetzidis 1997). For the most part of this decade, police raids and the harassment of trans and cross-dressing sex workers were a daily phenomenon as well as violent assaults by johns, verbal harassment and stigmatisation (Theodorakopoulos 2005: 42; Paola Revenioti 2011). In order to find legal traces of this reality, I take a brief detour into the archive of police journals from this period.[105]

The passing from this archive uncovers that specific gender crossing identities had an involuntary familiarity with police agencies and a regular degree of interaction with criminal courts. Looking at the Hellenic Police journal archives there are mentions of "travestis" (*τραβεστί*), sometimes in quotation marks, or "homosexuals" (*ομοφυλόφιλοι*) - referring still to cross-dressing and cross-gender identification - and the tone is often openly derogatory or even derisive. For example, in a 1978 issue of the journal Police Chronicles, a case reported in the "successes of our agencies" section reads:

> ***"Travesti" crooks:*** *The wallet of the Syrian sailor [male name] has been stolen by "Sonia" and "Leta", after they promised him "orgies". The crooks, known to the police, are [male name] 19 years old (Sonia) and [male name] 25 years old (Leta). The two "girls", dressed in women's clothes of the latest fashion, (…) (Astynomika Chronika 1978: 326, my translation).*

[105] According to the Hellenic Police website, City Police and the Hellenic Gendarmery each had their own journal ("Police Chronicles" and the "Hellenic Gendarmery Review" accordingly) since 1953. After the merging of the two forces in 1984, the two journals merged as well under the name "Hellenic Police Review" that remains the official police journal until today (Hellenic Police website, date n/a).

The report continues in the same tabloid-like tone to give an account of what happened in the form of an anecdote, with direct dialogues included in the text. Moreover, the text is accompanied by the mug-shot of one of the women, subtitled "the 'travesti' 'Sonia'".[106] The quotation marks and exclamation marks along with the title and the overall wording create a mocking tone.[107]

In a similar tone, during the mobilisation against the infamous decree for sexually transmitted diseases[108] and the international support campaign it sparked,[109] the Police Chronicles journal writes in its "police news from abroad" section:

> ***The fraternal support of Swedish "travestis"****: A voice of support from Sweden. We received it on 28.9.1978 and it refers to the movement of "Travestis" in our country, which did not have the reception expected by international organisations of the kind, by the Greek authorities.*

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[106] Sonia was one of the most famous transsexuals of her time, notorious in the underground Athenian scene as a radical in the artistic and political sense. Sonia was found strangled in 1982 and although her death shook this scene and made headlines, it remained unsolved. Paola Revenioti wrote a powerful text in Kraximo for Sonia's murder titled "Sonia. A lifetime in hell" including a picture of Sonia's naked strangled body (Revenioti [1981-1993] 2007: 54). The anarchist Katerina Gogou, the darkest Greek poetess of this time, included a poem (titled "Sonia") for Sonia's murder in her poem collection "The Absentees" (Gogou 1986: 26; for English translation taxikipali 2010: online, page n/a).

[107] Notably, this tone is not reserved just for such themes but is used in many of the articles and reports of cases, which are written in the journal in an almost comical manner.

[108] The Colonel Junta (1967-1974) bequeathed the next governments with a decree titled "Concerning the protection from sexually transmitted diseases and the regulation of similar issues", which criminalised cruising and threatened homosexuals (at that time, that included trans women) with imprisonment and displacement (Theodorakopoulos 2005: 18-19). While the decree was processed in order to be voted in a new form by the parliament, an unprecedented campaign against it took place in the late 1970s and early 1980s. Trans sex-workers were already harassed on a daily basis by the police for soliciting sex (Paola Revenioti, 2011). In view of this additional threat they organised and worked together with the newly formed Liberation Movement of Greek Homosexuals and other allies (such as some left-wing groups) to resist the passing of the bill (Theodorakopoulos 2005: 42). The protest of 500 trans women, homosexuals and allies in front of the Greek Parliament in 1981 remains a historical moment for the Greek LGBT+ movements. Although, this struggle prevented the enactment of the bill and is considered the birthing moment of the Greek LGBT movement, cruising spots continued to be raided and trans women that worked the streets continued to be rounded up and harassed by the police for many years to come (Theodorakopoulos 2005: 44; Paola Revenioti, 2011).

[109] A public letter of protest against the bill published in 1978 was signed by 250 intellectuals and artists including Simon De Beauvoir, Jean-Paul Sartre, Louis Althusser, Rolland Barthes, Costas Gavras, Michel Foucault, Felix Guattari, Nikos Poulantzas and many others (Theodorakopoulos 2005: 36).

> *In the statement of support - that was sent to us by the representative body of the homosexual movement of Sweden - after mentioning that the unacceptable fact of the persecution (!) goes against Article 2 of the Declaration of the Rights of the Man and, no more no less, of the Helsinki Accords, it points out: [part of the statement quoted]! And the protest statement, which signed by 'madame' President [name] and the 'homosexuella socialister' [name], concludes: We support the struggle of the Liberation Movement of Greek Homosexuals against the fascism of androcracy"! (Police Chronicles 1979: 129, my translation).*

Once more, the quotation marks and overall tone of this report point to mockery but also reveal a familiarity with trans women and a very specific way of addressing them. That is, although the lack of respect is obvious, unlike the Civil law texts, the existence of the transsexual/travesti is neither denied nor concealed. Although these individuals are identified with their official (thus, male) names, at the same time, the female names are present too and, for instance, the mugshot carries only the female name of the arrested person. Moreover, there is no trace of hermaphroditism as a category, which overlaps with transsexuality. The transsexual/travesti is present in this archive as a clear image. This is not claimed to constitute at any point a respectful positioning on part of the police, but it is still a testimony to an understanding formed through the banality of daily interaction.

Criminalised, sexualised and misrepresented as she may appear, the figure of the transsexual/travesti is nonetheless inscribed within police journals as a part of the city's daily grind.[110] The reality of the daily interaction of trans women with the appendages of the law creates a sharp contrast with the complete omission of the transsexual/travesti as a category in the Civil law sex classification debate. In the next decades, more cases including trans women are published in the same form in the journal of the Hellenic Police (Astynomika Chronika 1983: 600; Astynomiki

[110] On a couple of cases, travestis are mentioned also as victims in reports of arrests of violent criminals, in which case the wording is neutral lacking the aggressive or mocking tone (Astynomiki Epitheorisi 1989: 56; Astynomiki Epitheorisi 1992: 531).

Epitheorisi 1988: 643; Astynomiki Epitheorisi 1998: 189). Although it appears that some cases probably made it to the criminal courts, they did not enter the debate of legal scholars on sex classification and the meaning of sex in the law. The sole judicial text from this field that became part of this debate was decision 400/1986 of the Athens Military Court (it was not a final decision but the court's resolution concerning an objection raised during a criminal trial), which touched upon some key issues and, thus, will be presented in more detail (Poinika Chronika 1986).

The defendant in this trial was an aircraftman of the National Air-force (hence the military court) who met the complainant in a "house" where she legally worked as a sex-worker. The complainant, a woman who had amended her legal gender from male to female, had been a licensed (by the police) sex-worker for four years when she met the defendant. The two became romantically involved and soon acquired official permission to get married and set a date for their wedding.[111] A few months later, the planned wedding was cancelled after the insistence of the familial environment of the accused, a fact that led to the deterioration and resolution of the relationship. During the time that the couple was together, the accused "after having created an environment of trust" led a frivolous and luxurious life by extorting a big part of the complainant's income (Poinika Chronika 1986: 953).[112] The lawsuit brought in front of the court by the claimant was grounded in the Penal Code, which punishes "the man that is wholly or in part supported by a woman who works as a prostitute and by the exploitation of her immoral earnings" (Art. 350 P.C.). When the case was introduced for discussion, the accused raised an objection about the applicability of the law, which explicitly requires a female victim ("a woman who works as a prostitute […]"), while, according to him, the complainant was not to be considered legally as a woman.

[111] It is mentioned in the case that the complainant had been married to another man before the defendant, confirming that marriages after legal gender amendment were taking place.

[112] It is noteworthy that some of the trans sex-workers of that time could earn very satisfying amounts of money, which is not the case anymore.

The final outcome of the trial is not part of the published text, only the outcome of the discussion of this objection. Due to the taxonomic conflations unravelling within legal theory, it is not clear from the text if the complainant is an intersex or trans person. More specifically, when her medical history is given, she is described as "being born in a hermaphrodite condition" and having an ambiguous genital anatomy. Nonetheless, the summary that is given at the beginning of the publication reads:

> *Can someone be the victim of this crime if he was born a man but, after having undergone surgical operations, changed sex (…) (Poinika Chronika 1986: 952, my translation).*

Since the Civil law field would acknowledge only hermaphroditism as a legitimate reason to recognise a change in civil status, gender variant individuals, even lacking genital ambiguity, presented as hermaphrodites to navigate the legal terrain. For example, commenting on the sex distinction in Article 350 P.C. that requires a female victim, the text reads:

> *Anyway, considering the fact that the current social reality has started to tolerate, but also to accept, sex changes that are made through successful surgical procedures, with more frequent being the case of men that, due to the phenomenon of hermaphroditism, accede to the female gender through the intervention of Medical Science (…) (Poinika Chronika 1986: 953, my translation).*

From such passages, it is safe to assume a categorical overlapping of hermaphroditism and transsexuality within legal theory and other fields at that time. Moreover, the taxonomic conflations echoing the works of Legal Medicine, made the limits of such categories porous and unstable (Prosser 1998b). Whatever the anatomical "truth" of the claimant had been at birth, after the performed surgeries, her physical, psychical and emotional condition as well as her social behaviour was, according to the opinion accepted by the Court, beyond any doubt that of a woman. What sets this decision apart from all the other studied texts is

the realisation on the part of the jurists involved that deciding upon claimant's categorisation as a "woman" would necessarily entail not only the verification of the person's sex status but also a definition of the category itself.

From the summary of the decision, it is already apparent that the main objective of the published analysis is the "interpretation of the concept of 'woman' in Article 350 P.C." (Poinika Chronika 1986: 952, my translation). The main point of the jurist is that the meaning of the term "woman" in this provision should be dictated by the purpose of the provision, which is to prevent a specific kind of exploitation. Thus, a distinction between a "'natural' woman-prostitute and one whose gender identity was later confirmed and constituted even through corrective surgeries" is not in accordance with a teleological interpretation of the protective scope of the provision (Poinika Chronika 1986: 955). This argument is in direct dialogue with critiques on classical theories of categorisation as analysed in chapter three. Being the only text that openly engages with the interpretation of such a category, its detailed rationale deserves our attention:

> *Nonetheless, other than the substantial (through the surgical procedures) and the legal (amendment of birth registration act – granting of new id) alteration of her sex, it should not be overlooked that her entire social presence and behaviour (female attire and speaking manner, sexual relations with men, being married to a man before meeting the accused, working as a prostitute) is such that not only confirmed her existence as a woman but also made her inclusion to the female gender imperative. Of course, the accused claims that the "complainant", regardless of the performed surgeries, does not have from a biological and medical point of view the characteristics of the female sex, meaning, obviously, the internal reproductive organs (ovaries, fallopian tube, uterus) that a woman has since birth. Nevertheless, the provision of Article 350 P.C. does not mean as a "woman" only the one that biologically and anatomically has all the genital organs (internal and external) since birth. It definitely includes the one that has, even if acquired by corrective surgeries, external female*

> *organs and characteristics (vagina and other apparent features of the sex such as breasts, buttocks etc.) which give her the ability to normally engage in intercourse with men and be considered by them as a woman during the intercourse or other sexual acts. In this case, the complainant's lack of internal genital organs, which are necessary only for reproduction, definitely do not deprive her of the capability have intercourse and perform all sexual acts with men (…). Anyway, the sheer fact that the complainant professionally solicits sex to men in exchange for money confirms and fortifies her position as a woman (…). The real meaning of the term "woman" that is provided above, is in our opinion perfectly in accordance with the purpose of the provision (…) (Poinika Chronika 1986: 954, my translation).*

This passage is revealing in various ways both for the role of the jurist and the underlying gender norms that form the ideological background of the law. The role of the jurist as an interpreter of the letter of the law is indicative of the power that lies within interpretation. The legislator might have composed the text, but it is in the power of the reader/judge to explain what is *really* meant by the term "woman", which, in most cases, is considered self-evident. The power that crystallises in this instance is multi-faceted. It is not just the power of restricting or broadening the protective scope of the law, which, in this case, is applied in favour of the complainant (even if it later will be contested in other texts), but also the power to make claims about the category "woman". These claims consequently turn into claims about sex as a category, a set of criteria worded out by the authoritative interpreter and his understanding of reality.

The issue of the concept of category itself, as it has been analysed in chapter three, resurfaces in the jurist's methodological handling of the category "woman." The givenness of sexual categories claimed by legal scholars corresponds to classical theories of categorisation that assume categories to have clear and set boundaries holding in all the "things" that share specific common properties (Lakoff 1987: 6; Taylor 2003 [1989]: 20-21, Jacob 2004: 520). Nonetheless, the jurist in this case

performs a Wittgensteinian reading[113] of gender categories in the law, thus reaching a conclusion which was later challenged by legal scholars. Accordingly, the rationale behind the decision hints towards the non-uniformity within "woman" as a category. As was established in chapter three, critical approaches to categorisation have emphasised that different members of a category might occupy more or less central positions in relation to the conceptual core of the category (Lakoff 1987: 17). Thus, some members might be perfectly exemplary of the category while others being less representative are easier to exclude in case of restrictive shift of the boundaries that mark the inside from the outside of a category. The complainant is granted here the status of a woman "even if" her female anatomy was acquired by surgical means. This "even if" speaks to the hierarchy within the category and is aligned with the argument of the earlier civil case used by Greek scholars, in which Arlene Leber was classified as female in Civil law but, at the same time, it was declared that she "is neither a perfect man nor a perfect woman" (Themis 1946: 406). The complainant, thus, is woman enough for Article 350 P.C. but would be more of a woman or would *simply be* a woman if her sex were not surgically constituted, and if she had internal reproductive organs etc.

What becomes clear by the interpretation task at work is that sexual categories have shifting boundaries depending on the criteria used and the purpose of the categorisation. Even if bodily characteristics were, at the time, the undisputable measure to assign sex, the further specification of which bodily traits possess

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[113] Interestingly, Jacob Hale (1998) has suggested the usefulness of such a reading of gender categories within trans theory:
None of these thirteen characteristics is necessary or sufficient for membership in the category "woman." Rather, these characteristics are best understood as Wittgensteinian family resemblances: resemblances that some women, to greater and lesser degrees, share with some other women, just as I share some resemblances
with some members of my biological family to greater or lesser degrees and fail to share some other resemblances that some of my biological family members share with others in my biological family. On this view of the logical type of definition adequate to contemporary gender categories, developed more generally by Wittgenstein in his Philosophical Investigations, things within one category bear numerous resemblances to other things within that category, as well as to things in other categories. (…) Borders between gender categories, then, are zones of overlap, not lines (Hale 1998: 323).

decisive roles in the sexing of the body has led to various conclusions.[114] Nonetheless, the overall coherency of the underlying gender paradigm does not seem to be conflicted by the arbitrariness of the chosen criteria, which have produced conflicting results. For example, navigating international trans jurisprudence, only three years prior to the examined case, the British courts had reached a directly opposite ruling in a case regarding charges of living off prostitution earnings (s 30 of the Sexual Offences Act 1956 and s 5 of the Sexual Offences Act 1967). In this case (*R v. Tan*), the court had to tackle the question of whether the accused trans women were to be considered as women or men, since sex was an essential element for the charges. The court ruled that the accused were to be considered male for the purposes of these provisions following the rationale of *Corbett v Corbett*.[115] Returning to the Greek decision of the Military Tribunal, although probably unaware of the international debate,[116] the judge considered as decisive the combination of genital post-operative anatomy, "psychical and

[114] Katherine O'Donovan organises judicial approaches to sex classification in two groups according to the criteria chosen as crucial, the essentialist and the cluster-concept approaches (O'Donovan 1985: 64). The essentialist approaches decide upon which feature is decisive and then classify all individual along that axis and the cluster approaches consider a set of similar traits ("a cluster of concepts"), which suggest that the individual belongs in one of the two sexes (O'Donovan 1985: 64-65). As Whittle has shown, while cluster-concept approaches might be more inclusive (as seen in the studied case too), nonetheless both lines of thought prove problematic as in both "the law operates on the assumption that the two sexes are separate entities with distinct sites" (Whittle 2002: 12).

[115] In Corbett, the sex of April Ashley (a post-operative trans woman) was to be decided for the purpose of marriage after her husband's petition for nullity on the grounds that April Ashley remained male and, thus, the marriage was void and, additionally, that the marriage was never consummated due to the respondent's incapacity. Lord Ormrod decided that indeed the respondent remained male for the purpose of the case and that "normal" intercourse was not compatible with Ashley's post-operative anatomy, thus, the marriage was not consummated. The test that was devised to decide upon the sex classification of the respondent regarded chromosomal, gonadal and genital characteristics at the time of birth, over not only psychological and social factors but also post-operative anatomy. The *Corbett* case (1971), which has been thoroughly analysed within trans-related scholarship, became a reference point for the next approximately thirty years (until the shift marked by *Goodwin v. UK 2002*), not only for English courts but also for other legal orders that turned to the Corbett rationale in search for a "safe" set of criteria for sex classification (Sharpe 2002; Greenberg & Herald 2005; Whittle & Turner 2007; Hines 2009; Herald 2009; Meadow 2010; Tao 2015; Hutton 2019).

[116] As mentioned earlier, some Greek civil scholars tried to follow the international debate but since the Greek legal order was traditionally influenced by German jurists, the cases that were translated were German and Swiss while British jurisprudence was often ignored. Nevertheless, the criminal case studied here does not mention any of the translated civil cases as the two fields do not seem to be in dialogue. Obviously then, the Greek Military judge is (luckily) not aware of the *Corbett* case and its international impact.

psychological feeling" and social behaviour,[117] thus, reaching the opposite conclusion than in the cases above and still while remaining within the broad concept of hermaphroditism (Poinika Chronika 1986: 952).

Another point that stands out in decision 400/1986 is the centrality of heterosexual intercourse, which is recognised as a crucial criterion for the inclusion in the category "woman". (Hetero)Sexuality as proof of one's sex or gender is very common in both sexological and legal texts during the nineteenth and twentieth century (Bolin 1996: 454; Cromwell 1999: 110; Sharpe 2002: 32-33). This coupling fed the continuing conflation of sex, gender and sexuality, as well as the naturalisation of heterosexual desire and practice. At the same time, returning to Prosser's (1998b) argument, discussed in chapter three, about the historicity of those concepts, it allowed for the erasure of trans narratives within critical readings of sexological texts and its reduction to a vehicle for the expression of homosexual desire. For the judge in this case, the complainant is a woman *because* she can "achieve" heterosexual intercourse with men, *because* she is perceived as a woman by these men during intercourse, and, last, *because* she solicits sex to men professionally.[118] The "prostitute" as a figure, regardless of her perceived immorality and criminal disposition, becomes in this case a vehicle of conceivability. It allows the complainant to be classified as a woman through her subsumption in "one of the different categories of women such as the wife, the mother, the widow, the prostitute, the employee etc." which can grant legibility in the eyes of the law (Kravaritou 1996: 145).

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[117] In other words, this court applied, in Katherine O'Donovan's terms, the cluster-concept approach in a criminal case during a period when O'Donovan was noting:
However, the cluster-concept approach has not been accepted in any jurisdiction for sex-determination in relation to marriage, or other legal areas where sex has been found to be an essential element (O'Donovan 1985: 68-69).
This is indicative not only of the inconsistency within and among fields but also of the particularities of different national legal orders and the varying paths they have followed.

[118] The last point, which is articulated in such a unique way ("the sheer fact that the complainant professionally solicits sex to men in exchange for money confirms and fortifies her position as a woman" Poinika Chronika 1986: 954) might appear at odds with the acknowledgement of male and transvestite prostitution earlier in the decision. Nonetheless, it is not at odds with the overall gender imperative of the law, which demands a certain kind of legibility in order to "read" a person as a woman or a man.

Overall, decision 400/1986 of the Military Court of Athens is one of the most detailed and surprising legal texts of its time in Greece. Applying a rationale that resembles what O'Donovan (1985) characterised as "cluster-concept approach" (see footnote 114), the court found that post-operative genital anatomy along with psychosocial factors are enough to classify the complainant as a woman for the purposes of this specific criminal provision. Contra the *Corbett* thesis for sex classification, which prevailed in many legal orders at the time, this case recognises post-operative sex in a blurry frame between hermaphroditism and (implicitly) transsexuality. At the same time, it remains faithful to the narrative that naturalises heterosexuality as a trait or a proof of sex, feeding into their conceptual conflation.

The next section continues the methodological detour outside Civil law in search of a deeper understanding of the workings of classification and interpretation with regards to both the regulation and the erasure of transsexuality in the law. This time, I turn to a narrow area of Medical law and, more specifically, the debate over potential criminal liability of doctors performing gender confirming surgeries.

6.2.b. Medical Law – Criminal Liability

Within Medical law, there has been a parallel discussion that touched upon sex taxonomies in the law engaging with the issue of the legal nature of "sex-change operations" and the possible criminal liability of the doctors performing them. As in the discussions analysed in the previous sections, the selective erasure of cross-gender practices plays a significant role in this debate as well. As it will be established, the (de)legitimisation and (il)legalisation of medical transition processes depends on the used taxonomies and the interpretative workings performed around their categorical limits.

In 1972, the Athens Medical Association requested the opinion of the First Instance Public Prosecutor (V. Pappas) regarding the legality of "sex change" surgeries. The inquiry of the Athens Medical Association drew from the fact that surgical procedures that were not "socially conducive" were forbidden and, thus,

punishable by Medical law regardless of the patient's consent. The summary of the Public Prosecutor's 4820/1972 opinion reads:

> *The surgical procedure of sex change on a person of ambiguous physiology and in favour of the predominant sex in them is not contrary to the law or the accepted principles or morality – The justification for the non-punishment of the surgical procedures [is] their purpose and presuppositions (…) (Poinika Chronika 1972: 645, my translation).*

According to the issued opinion, the right to one's body, as part of the right to one's personality, is to be exercised in relation to not only the individual but also the society as a whole. It then follows that surgical procedures which are not "objectively" necessary for saving or preserving the life and well-being of the individual and are contrary to the "social well-being and healthy cultural tradition" should not be permitted (Poinika Chronika 1972: 645). With this principle in mind, the Public Prosecutor sets out to examine if "sex change operations" are legal or if there should be criminal liability on the part of the surgeons involved.

The opinion takes a rather positive stance in interpreting the purpose of an operation as not limited to the treatment of a disease *stricto sensu*. Following the rationale, which legitimised plastic surgeries on World War II trauma patients as part of a broadly interpreted "therapeutic cause", the Prosecutor concludes that the interest of the patient should include a moral and psychological aspect. In that sense, it should be thought to include the remediation of "anything that opposes the natural order and the normality of nature" (Poinika Chronika 1972: 646). Accordingly, sexual ambiguity is described as a source of "personal misery" that leads to antisocial behaviour, mental illness and the "creation of perverse individuals" (Poinika Chronika 1972: 646). Through this line of thought, sex confirmation through surgery becomes "socially conducive" and, thus, legally permitted under the preconditions in place for every other surgery, that is: the patient's consent, the scientific suitability of the method employed, and the established and conscientious diagnosis of the treated case (Poinika Chronika 1972: 646).

The importance of this text, other than the overall conclusion, lies in two parts. The first, which is of interest here, is the definition of the cases, the surgeries and subjects that fall under its purview and, thus, are legitimised. The second, which will not be further analysed as it pertains to the medical part of transitioning, is the drawing of an official path for gender reassignment procedures in terms of a lack of specific provisions in the law.[119] As to the former, the text plays into the conflation of hermaphroditism and transsexuality, which is part of the scientific debate of this period:

> *The surgical procedure changing the sex of flawed individuals, called hermaphrodites* (intersexues, transsexuals) *[this parenthesis is not translated or written in Greek characters], on which the sex determined during fertilisation was later reversed partially or in whole due to various causes (endogenous or exogenous), if objectively targeted to the assistance of the completion of the prevailing sex or generally the remediation of the demonstrated flaw or defect or deviation of nature - that is, not of a purely experimental character - and if scientifically suggested as a surgical procedure for the achievement of such a result, it does not contravene, according to our opinion, any legal provision or the dominant values of our cultural tradition or the accepted principles of morality (Poinika Chronika 1972: 645-646, my translation).*

As seen in the text above, which is another example of the taxonomic conflation, transsexuality completely collapses into hermaphroditism. The untranslated

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[119] In the section that states the general conditions that render legal any surgical procedure, within the third condition ("established and conscientious diagnosis"), the text concludes:
We have the opinion that for the appropriate and safe diagnosis of the reversal of the sex definition of a person, as well as its ability to be treated through surgery, it is necessary to have the approbation of the above-mentioned expert doctors, that is, a surgeon, an endocrinologist and a neuropsychiatrist (Poinika Chronika 1972: 647).
This has great practical significance, as it marks the diagnostic preconditions that are to this day necessary to proceed to surgical alteration of genital anatomy. According to the Public Prosecutor, these diagnoses are also to be produced in front of civil courts in order to change the civil status of the person. It should be noted that the entire text is based upon texts of Legal Medicine, mainly from France, and does not draw from any of the legal (civil or penal) texts of Greek legal theory or Greek litigation or, for that matter, Greek Legal Medicine on the issue.

parenthesis that comes from foreign literature refers to "intersexues" [*sic*] and "transsexuals", only to be translated (or interpreted) in Greek as "hermaphrodites". Moreover, the apposition of phrases used by the jurist to define the range of legally accepted surgeries ("targeted to the assistance of the completion of the prevailing sex or generally the remediation of the demonstrated flaw or defect or deviation of nature") allows a generous margin of discretion concerning the boundaries of hermaphroditism and, thus, the legitimation of genital surgeries.

This blurring of category limits contributed to the erasure of trans cases as such, collapsing them into hermaphroditism, but also, at the same time, enabled trans individuals to navigate the hostile medico-legal field on a practical level. Reading the conclusion of the opinion ("we have the opinion that surgical procedure, for the alteration of sex on hermaphrodite individuals, in favour of the prevailing sex"), one could conclude that it concerns only cases of anatomical ambiguity. Nevertheless, as it has been demonstrated, a careful reading reveals that, through the author's interpretation of hermaphroditism, the scope of the text includes trans individuals so long as they would be subsumed in the legible category of hermaphroditism. The Public Prosecutor's opinion, thus, resolves the issue of legitimate medical procedure and disperses the Medical Association's fears concerning criminal liability without, once more, introducing the transsexual as a figure in the discursive legal terrain. The author performs the same rouge detected in several other texts wherein the transsexual is hidden in the text, to be lost or found at will.[120] This feeds not only into this chapter's argument about the erasure of transsexual gender

[120] This rouge becomes blatant in another text on the same topic within a volume concerning Medical law and doctors' liability (Hortareas 1975). The text follows the Public Prosecutor's rationale both concerning the choice of classification and the justification of surgeries as "socially conducive" due to their ability to integrate "formerly completely useless individuals" in the society (Hortareas 1975: 103). Other than the arguably derogatory wording, the author takes it up to himself to literally erase the transsexual in the text. After the first few paragraphs, quotation marks open and the rest of the text consists of the entire (approx. five pages long) rationale of the Public Prosecutor's opinion. The opinion is embedded *verbatim* in quotation with only one alteration as shown below in a comparison of the two texts:
The surgical procedure changing the sex of flawed individuals, called hermaphrodites (intersexues, transsexuals)*, on which (…) (Poinika Chronika 1972 p. 645, my translation).*
The surgical procedure changing the sex of flawed individuals, called hermaphrodites (INTERSEXUALS)*, on which (…) (Hortareas 1975: 104, my translation, emphasis in the original).*
And like that, the transsexual is (literally) erased.

identities from certain areas of legal theory but also into the broader epistemological argument of this entire part of the thesis. That is, the importance of a critical legal genealogy in order to acquire a fuller understanding of the chaotic paths gender identity regulation has taken historically.

The phantasmatic status of trans experience in these debates, which was enabled by taxonomic manipulations and, to some extent, allowed informal legitimation of medico-legal transitioning, was directly contested in 1982 by a text published in the Hellenic Gendarmery Review under the title "Sex Change Is Scientifically Impossible" (Giamarellos 1982).[121] The author, who is a scholar of Legal-Medicine, suggested a detailed classification of hermaphrodites in female pseudo-hermaphrodites, male pseudo-hermaphrodites and true hermaphrodites. Sex determination according to the author depends on chromosomal and gonadal agents. Genital surgeries, then, serve to "externalise" and not change sex.

> *And that means - we emphasise again - that it is impossible to perform a sex change. It is anyway indisputable that for any person to be a real woman, after whichever surgery performed – it is necessary to have XX chromosomes. Additionally, ovaries, fallopian tube and uterus. And, contrarily, for a person to be a real man - after whichever surgery performed - they should have necessarily XY chromosomes and testicles (Giamarellos 1982: 494, my translation).*

[121] Although the text belongs in the field of Legal Medicine, I have chosen to include it in my analysis because its content along with the high rank and scientific status of the author P. Giamarellos (who was the Chief of the Medico-Legal Agency of Athens and remained an emeritus Chief of the National Medico-Legal Agency until his recent death) allowed it to enter the debate about the legality and consequences of genital surgeries. Moreover, with a bitterly sarcastic paragraph that is emphasised by the author, the text claims a place in the broader debate around sex classification within legal theory:
The definition of a person's sex is exclusively in the authority of Legal Medicine's professionals and no one else.
The sex of a person never changes, neither by court judgements, nor by administrative actions. Neither by issuing new identity cards nor by weddings or baptisms is it possible to change the sex of person. Any of the above actions of changing sex is void due to its lack of grounding on scientific facts (Giamarellos 1982: 495, my translation, emphasis in the original).

Other than setting an explicit bodily topology[122] of sex definition (similar to the *Corbett* test), Giamarellos added a fourth category in his taxonomy of hermaphroditism:

> *4. There is also the case of individuals that are neither pseudo nor true hermaphrodites, but passive homosexual individuals (…) (Giamarellos 1982: 494).*

In this category he proceeds to describe a male-to-female transition (including medical intervention) in a rather vulgar wording, thus, explicitly shifting from a collapse of transsexuality into hermaphroditism to its collapse into homosexuality. A shift that, if followed, could de-legitimise operations that do not strictly respond to cases of ambiguous genital anatomy. Indeed, it appears that, at least in the field of Medical law, the fervent positioning of Giamarellos had a serious impact on the formation of the legal debate of its time as it was repeated and adopted by other authors engaging with the same issue (Iakovou 1987: 479; Karabelas 1988; Karageorgos 1996).[123] Nonetheless, the approach of the Public Prosecutor still carried weight and was preferred by some of the authors, which remained closer to the categorical collapse of transsexuality with hermaphroditism rather than homosexuality (Kokolakis 1994).[124]

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[122] The practice of detailing bodily anatomy throughout the text, is in accordance with the practices of Legal Medicine and similar fields that, unlike Civil law, engaged in explicit portrayals and typologies. As in other countries, these competing typologies exist simultaneously for decades resulting in conflicting legal approaches (Sharpe 2002: 26).

[123] For example, another text in the discussion on criminal liability of doctors performing "sex change operations," the author (D. N. Iakovou) fully adopts Giamarellos taxonomy (hermaphrodites and homosexuals) and rationale (Iakovou 1987: 479). In this text, the medico-legal thesis of Giamarellos is translated into specific Penal and Civil law results (Iakovou 1987: 479). Specifically, it is supported that "sex change operations" performed on individuals other than the "pathological" cases of hermaphroditism, are "socially unjustified" and dangerous for the individuals, and, thus, punishable by law (Iakovou 1987: 480). Military court resolution 400/1986 (Poinika Chronika 1986) is mentioned along with the comment that it is "entirely mistaken" in its conclusion to recognise post-operative sex as the legal sex of the person (Iakovou 1987: 480). The text closes with a plead towards the State and judicial authorities to take action in order to terminate this harmful and dangerous phenomenon (Iakovou 1987: 480).

[124] For example, a text published in 1994 titled "The criminal evaluation of surgical procedures" follows the Prosecutor's opinion (Kokolakis 1994). The author, E. Kokolakis, appears to have been drawn to the study of sexual deviance contributing to its grotesque depiction within Criminology on

The shift from a taxonomic conflation of transsexuality with hermaphroditism to a conflation with homosexuality introduces different kinds of legal anxiety. [125] The preoccupation with the ability of "individuals with XY chromosomes" to marry that was analysed in the previous section is exemplary of such an anxiety and, according to Sharpe, should be read against the homophobia in the law (Sharpe 2002: 118). Sharpe's analysis helps to create an understanding of texts as aggressive as the one by Giamarellos that insist on the "truth" of sex being unchangeable as it is inscribed deep within the genetic history of the body. Although the argument of the text is grounded in the scientific insubstantiality of any notion of "sex change," the intensity of the language used (along with exclamation marks and other emphatic means)[126] creates a polemic that escapes the realm of the medical. Hale's (1997a) characterisation of the decision regarding how to view gender identification claims as a political decision provides a frame of understanding for such openly hostile discourses, regardless of their self-proclaimed scientific objectivity (Hale 1997a: 234).

Indeed, the entire text is written in a very aggressive tone with versions of the phrase "sex change is impossible" or "sex never changes," repeated every few sentences. The hostility of the author is openly directed to this fourth category and the main purpose of the text seems to be the clarification of the conflation that allowed trans individuals (trans women specifically) to unofficially navigate the medico-legal terrain and even gain recognition of their civil status through this

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separate occasions, such as his monographs "The Psychically Perverse Criminals" (Kokolakis 1971) and "Homosexuality as a Cause of Crime" (Kokolakis 1976). This kind of engagement explains the fact that the text in hand, includes detailed accounts, examples and pictures from Greek and foreign works of Legal-Medicine. Nonetheless, in this text, homosexual desire, along with "gender dysphoria," is described as a symptom of hermaphroditism and not the contrary (Kokolakis 1994: 73).

[125] Another issue that appears in these texts is the preoccupation with "sex change" as a means to escape military service, which in the Greek context was -and still remains- compulsory for male citizens (Karabelas 1988; Politis 1999). Fast forward into the future, this will be one of the most common arguments in the discussion on the legal recognition of gender identity regardless of medical intervention in 2017. This point, which can be seen as part of the broader reading of trans identity as fraudulent (Bettcher 2007; Sharpe 2018) will be revisited in the analysis of the debate of the recent change in legislation as this is when it was mostly invoked.

[126] It is even characterised as "silly and childish" to accept the possibility of an actual sex change when the chromosomes and gonads of the other sex cannot be acquired (Giamarellos 1982: 495).

route. Accordingly, the stakes with respect to upholding this taxonomy and not the one used in the Public Prosecutor's opinion, wherein hermaphroditism is interpreted as containing transsexuality, are remarkably high. The power of the legal interpreter here is connected with the body of the legal subject in a direct way: it regulates the (il)legality of its surgical alteration, thus commanding the sexual anatomy itself. It becomes an instance that confirms Cover's claim that "the normative worldbuilding which constitutes 'Law' is never just a mental or spiritual act" and, more specifically, his understanding of legal interpretation as something that is "realized, indeed, in the flesh" (Cover 1986: 1605).

The methodological departure of the last sections from the strict limits of the discussion on sex-classification in Civil law has allowed a solid grounding of this debate through inputs from other sources and debates. The next and final section of this chapter, looks at the work of two scholars, whose analysis is underpinned by an alternative set of politics regarding gender and sexuality (as well as knowledge production for that matter), thus resulting in a foundationally different approach which was not picked up by those conducting the main debate on sex-classification.

6.3. Alternative Frameworks

During the second half of the century and while the dominant Euro-American legal paradigm was being challenged by feminist and LGBTI+ legal scholarship, Greek legal theory remained male dominated and strictly traditional concerning gender and sexuality issues (Rethymniotaki *et al* 2015: 10, 12). Within such a suffocating context, the attempts to introduce feminist or other critical analyses were rare (e.g. the Women's Study Group at the University of Thessaloniki) and gained little recognition. In this vein, the analysis of the authors presented in this section (Giorgos Dokoumentzidis in Public Law and Theofano Papazisi in Civil Law) not only sets them apart from the main debate on sex classification and its effects (thus, methodologically dictating the separate presentation of their work) but also serves as a reminder for the importance of the political principles underpinning legal analysis. Situated in approximately the 1990s, these texts demonstrate how a legal debate that would welcome alternative gender and sexual identities might have

looked like. Moreover, the limitations of these analyses point towards my suggestion for a legal genealogy of gender identities that is attentive to the porousness of different categories used by legal texts.

The work of the first scholar, Giorgos Dokoumetzidis (1997), an Athens' Law School graduate spans only from the late 1980s to the mid-1990s and is concerned with the management of sexuality and the possibility of establishing sexual freedom within a frame of Public law. The foundation of his theory, which was largely influenced by French theorists, was already written and presented by his third year of undergrad studies at the Athens Law School and was published as an article in the year of his graduation (1988) (Dokoumetzidis 1997). He continued this task with two more texts and undoubtedly would have created a greater body of critical legal theory on sexuality if it were not for his untimely death in 1995 at the age of thirty. Dokoumetzidis' work, as it will be established, is unique within Greek legal scholarship, not only due to the radical content, given its time and place, but also for its methodological attributes.[127]

Dokoumetzidis (1997) theorised the management of sexuality within the Greek constitutional order and suggested the concept of sexual freedom as a right protected not only by international texts but also indirectly by the Greek constitution. His analysis comments on the role of law in the formation and preservation of sexual morals and the promotion of reproductive heterosexuality as the only legally protected, hence morally accepted, choice. One of his bold methodological practices was retaining the sexual within the fabric of his text. It should be noted that, even when engaging with issues of sexuality, contemporary (legal) scholarship in Greece addresses those issues through the language of family, kinship and other forms of institutional reflection of sexuality but not through the

[127] It is unclear if his methodological choices and unorthodox analysis would have allowed his theory to be accepted in the rigid legal academic community of that time. Indeed, his work is cited rarely (e.g. Papahristou 1997: 35) but this can be attributed, other than his approach, to the fact that within the strict academic hierarchies not many of the prominent scholars would be willing to ground their analysis on a student's work (Dokoumetzidis died before completing his PhD).

language of the sexual *per se*.[128] The fact that Dokoumetzidis' language does not shy away from the explicit, maintaining the sexual body as the epicentre of the text, constitutes a methodological choice that would be as daring in today's Greek legal theory as it was in the Public law field of the 1980s. Other methodological attributes that set apart his analysis are the use of activist texts as well as of unofficial personal accounts as sources of information regarding the daily entanglement of sexuality with the law (Dokoumetzidis 1997). Using activist texts as references appealed to an open admission of the political character of any legal analysis of gender and sexuality. This practice is in contrast with the dominant scientific paradigm of his time wherein the ideological background of other approaches receded from view by being presented as a set of natural facts under the illusion of scientific objectivity.

Although Docoumetzidis' theoretical construction of sexual freedom as a right through the use of both International and Constitutional law tools is a mission worthy of a thorough review, such a task cannot be undertaken in the present study without diverting entirely from the set research purposes. Nonetheless, it is crucial to navigate the trans-specific points of his analysis. In his first text published in 1988 ("Reference and Foundation of Sexual Freedom in the Present Law"), Dokoumetzidis engages with the legal management of trans subjectivity under the label of "transvestism". Although he clearly sets this concept apart from homosexuality, it is classified as a category of sexual practice and not gender identification and, hence, is studied within the limits of sexual freedom. The relevant section reads:

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[128] This can be attributed not only to the hostile environment that Greek law and legal scholarship have shaped towards the sexual (Vitoros 2008) but also to the transdisciplinary systematic (and systemic) de-valuation of sexuality (beyond the domestic model) and sexual practices as a subject within the Greek academia. Rare exceptions within this absence, are the works of authors such as Yanakopoulos (1998; 2005; 2006; 2010) and Chalkidou (2013; 2018) in the field of Social Anthropology and Canakis (2007; 2009; 2011) in the field of Socio-Linguistics.
As Aspa Chalkidou patiently explained to me, the lack of sexuality studies as a field within the Greek context led to the absorption of sexuality researchers into neighboring subfields of their disciplines. This resulted to work that adopts the framework and insights of sexuality studies in areas that have been often de-sexualised within academic discourses internationally (e.g. kinship studies). For an example of such a "pirate" kind of work see Chalkidou's (2018) analysis of parenthood as an inherently sexual category.

> *Transvestism, as a complete and overt impeachment of the male archetype, is implicitly and emphatically condemned by the traditional, masculinist - more precisely: phallocentric - ethics. This of course does not deprive travestis from their clientele. In our country, transvestism has indeed been identified with prostitution (only four out of approximately one thousand travestis in Greece have not worked in this profession). Nonetheless, that is not a logical necessity. It is rather a result of social conditions. As far as transvestism itself is concerned, it is not persecuted by the law. On the contrary, our country is one of the very few in the world where there is a judicial and administrative route that allows for the change of the sex indicator and name on the birth registration act and identity card, so long as the travesti has had a surgical sex change (Dokoumetzidis 1997: 98-99, my translation).*

The overtly political tone and the open criticism of the dominant sexual paradigm is consistent throughout the whole body of the text. This discourse along with the analysis of trans-related issues (such as the engagement in sex-work) as socio-political rather than medical is indicative of the distance between Dokoumetzidis' analysis and his contemporary legal scholars. Although his framework of sexual freedom is not precisely concerned with the definition of a person's sex in the law and, thus, cannot be seen as part of the debate that was taking place in the fields of Civil and Criminal law, it still provides the most accurate depiction of the reality of changing legal sex during that era.

In his second text ("Sexual Freedom"), which is written in 1990 within a postgraduate program of International Law at Paris II University, the theoretical framework remains almost identical. Nonetheless, the terminology and classification are more detailed, with transsexuality, which is the point of his interest with cross-gender identities, being carefully distinguished not only from homosexuality but also from transvestism and hermaphroditism. The classification is followed by this statement:

> *Obviously, this categorisation is schematic. In practice, there are always cases hard to classify (Dokoumetzidis 1997: 158, my translation).*

Once more, methodologically, this statement is all that his contemporary scholars were working against. The admission that classifications are not given and absolute, not perfect but schematic, reveals a different underlying view of law, knowledge and the scientific method itself. In this text, his focus on International and European texts and jurisprudence as well as the significantly broader access granted through the Paris University, led Dokoumetzidis to engage with issues debated on an international level.[129] In this vein, writing about transsexuality, he commented on foreign legislation and judicial practice but also reviewed European litigation (e.g. *Van Oosterwijck v. Belgium*, *Rees v. the United Kingdom*) under the internationally used frameworks (anti-discrimination, right to private life, marriage and family) but not in relation to the theoretical discussions that were unfolding in Greece.

The third and last of Dokoumetzidis' texts dealing with sexual freedom ("Sexual Minorities in Greece") was a paper presented in 1990 at a human rights conference

[129] At the time, there were a few relevant texts of European institutions that had been translated in Greek. One route that brought European trans jurisprudence within the Greek legal order was the annual European courts' Reports that according to the Rules of Procedure were to be translated in all official European languages and published in paper. The publication of the Reports of the Court of Justice of the European Union (at that period known as the Court of Justice of the European Communities) allowed for the translation of relevant cases in Greek (C-13/94 *P. v S. and Cornwall County Council*, C-117/01 *K.B. v National Health Service Pensions Agency and Secretary of State for Health*). As important as such cases were, their transfer in the Greek legal order remained merely a *pro forma* fulfillment of the Rule of Procedure of the Court without playing at that moment a significant role in the legal management of trans and intersex identities within the various fields of Greek law.
Another route that enabled the transfer of trans jurisprudence from European courts was through the translation and commentary of such cases by Greek scholars. In 1998 and 1999, a review of the jurisprudence of ECHR by two legal scholars, who were affiliated with the Maragopoulos Foundation of Human Rights, included summaries of two cases concerning "transsexual rights" (Kastanas & Ktistakis 1998: 963; Kastanas & Ktistakis 1999: 1140).The cases were *X, Y and Z v UK Govt.* (1997) and *Sheffield and Horsham v UK* (1998) and both their summary and short inserted comments by the writers were respectful in tone as well as content. The discourse invoked by the authors did not bare any similarities with that used in the Greek legal fields of that time. This is a precursor of the next era in the legal management of gender identity in which the role of international and European legal notions will accelerate and transform the discussions around trans identities. Nonetheless, at that moment, such publications were ignored by scholars of Greek Civil and Criminal law even when they engaged with the very issues regulated within these decisions and overall failed to uphold a significant role in the ongoing debate on sex classification and similar issues.

in Athens. The paper drew from his previously published texts and, as in the excerpts above, used unofficial estimations regarding the population and legal issues of transsexuals in Greece. Through this route, Dokoumetzidis reached opposite conclusions compared to some of the prominent Civil law scholars of his time.

> *In Greece, although there is no relevant provision in the law, jurisprudence has accepted the amendment of the sex indicator; the correction of birth registration act takes place after an application in Civil courts according to voluntary jurisdiction procedure. Since the previous "corrected" sex does not appear anywhere, there is no practical obstacle for the solemnisation of a marriage (Dokoumetzidis 1997: 210, my translation).*

As shown earlier, by reading the official letter of the law, scholars that dominated the relevant scholarship concluded that changes in legal sex and subsequent marriages are possible within the Greek legal order only in the rare cases of hermaphrodites. Dokoumetzidis, based on less official sources (personal accounts, newspaper articles and his own knowledge of legal reality for trans individuals in Greece) provides a more accurate understanding of the practices undertaken by trans individuals during that time.

Nonetheless, although Dokoumetzidis has proven more insightful on trans issues than the majority of his contemporary scholars, he failed to make the connection of the issue of transsexuality with the legal treatment of hermaphroditism. In his analysis, he dismissed hermaphroditism as a somewhat straightforward condition that "creates no serious legal problems" and can be managed by "simply" establishing the predominant sex (Dokoumetzidis 1997: 207). By disregarding the common legal history of hermaphroditism, homosexuality and transsexuality, his depiction of legal reality, although true-to-life, retains this gap, thus presenting Greek judicial practice as an unexplained mystery. Specifically, Dokoumetzidis appeared in 1992 on a TV show hosted by gay journalist, activist and later politician

Grigoris Vallanatos, and gave an interview that has been transcribed and published under the title "Law and Sex", wherein we can clearly see this gap:[130]

> *[…] There is nevertheless a legal issue: whether after the medical sex-change there can be an amendment of, firstly, the birth registration act and, consequently, the identity card. In Greece this happens without any problem. I don't know how come that happens. It's a miracle. The judge does not wonder at all whether he should allow it. He just does; I know they [transsexuals] do change their sex marker without any problem. In France, on the contrary, where, as well, there is no provision, there is conflicting jurisprudence (Dokoumetzidis 1995: 246, my translation and emphasis).*

Of course, in reality there were no miracles or mysteries in the Greek judicial practice. Contrary to other scholars, Dokoumetzidis realises the divergence between official legal theories and judicial practice. Nonetheless, without an understanding of the work that has been performed by such categories and their historical conceptualisation, this distance is presented as a legal mystery, a judicial whim that unexplainably grants a kind of recognition, which was not provided yet by many of the "more advanced" legal orders. Despite this shortcoming, which hopefully the present analysis has remedied, Dokoumetzidis' work remains exceptional in the context of Greek legal theory scholarship on gender and sexuality issues.

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[130] In the same TV appearance in 1992, he notes concerning "sex change":
Vallianatos: Greece, surprisingly seems to have a special sensitivity towards that.
Dokoumetzidis: In Greece there is no such provision. It is not foreseen by the law. Nonetheless, surgeries do take place in Greece and maybe not in the way they should, precisely because…
Vallianatos: In a rather shammy way.
Dokoumetzidis: Yes, unfortunately. And in a way somehow dangerous for those who undergo the surgeries. In any case, since it is cheaper than having it in another country, they take place here in a definitely illegal way, since there are not any provisions made by the law (Dokoumetzidis 1995: 245).
The obvious connection and insider knowledge of the practices of sexual minority communities of his time, speak to different paradigm of knowledge-production compared to the work of other legal scholars writing on the issue.

The second scholar whose approach sets her apart from the main body of scholarship concerning trans issues is Theofano Papazisi who was one of the founders of the Women's Studies Group, and, thus, one of the first researchers and writers that attempted to introduce feminist epistemological tools in Greek legal theory (Mihopoulou 2006a). In 1998, a one-day conference was held at the University of Thessaloniki, bringing together speakers from different fields under the title: "Gender reassignment: Medical, legal, social and anthropological aspects of transsexualism". Papazisi (2000), who was one of the organisers of the conference, presented a paper exploring the legal issues concerning the status and relations of natural persons after the amendment of their official legal gender. The text is the first trans-friendly effort to systematically address a variety of issues that trans individuals confront in their legal reality. Focusing on Civil law, the text engages with questions of Civil Procedure (for the amendment of identity documents), Family law, Inheritance law and some additional issues of Public law, such as the question of military service. The importance of the text lies less in the specific legal solutions suggested since they were not practically reflected on the legal practice of the time, and more in the epistemological and socio-political framework that informs its reasoning and positioning. After a number of decades of the legal debate around sex classification being male dominated and thoroughly pathologising, this text introduces a feminist legal analysis of the questions in hand.

Firstly, the terminology introduced indicates at first glance the distance and the structural differences from previous texts. The term "sex change" is replaced by "sex reassignment" and the sex-gender distinction is used as a theoretical vehicle to describe as individuals with "gender dysphoria" those who "don't identify psychologically with their apparent sex (…) and, on the contrary, want to be somatically and socially of the other sex" (Papazisi 2000: 122). The issue is framed within the concept of "gender identity disorder", as there was no other path (meaning non-medical) available that could officially legitimise any procedure of gender transgressing in the law. Nonetheless, the minimum space (a couple of paragraphs) dedicated to the medical description of the "disorder", along with the

overall tone, which is openly supportive, reveals a gesture of dispassion towards the pathologising and hostile discourses used by men of science up to then.[131]

In terms of legal theoretical framework, Papazisi brings the debate into the realm of human rights. She connects her analysis of gender reassignment and the law with gender equality and other constitutionally protected rights that are inspired by the Universal Declaration of Human Rights and the invocation of dignity and equality as fundamental values.

> *These persons have the right to be able to participate in the social, economic, political, cultural life of the country, as any other citizen without discrimination due to sex, gender dysphoria or sexual preferences different from the usual (Papazisi 2000: 120).*

Papazisi re-positions the issue as a socio-legal and not medico-legal matter. More importantly, she acknowledges the affected persons and voices a claim for them. The author does not engage with the medico-legal discussion and its endless taxonomies but does attempt a systematic approach to Civil law issues as they are mapped out in this new paradigm. Her legal analysis, which appears a lot more coherent and mature than the arbitrary declarations about sex classification saturating most of the texts, seems to be informed by the socio-legal struggles for women and sexual minorities' rights and their transnational circulation. Throughout the text, it becomes obvious that its rhetoric, rationale and suggestions situate it within a different debate than the one taking place in Greek legal theory on sex classification. It is rather a precursor of the current legal debates on gender identity and trans rights that use similar rights frames.

Last, Papazisi avoids the conflation of her text's subjects with both hermaphrodites and homosexuals. This gesture is crucial to enabling the emergence of trans, intersex and homosexual narratives as distinct. At the same time, disregarding the historical porousness of these categories and its effect on their legal management,

[131] Indeed, in a much later text, when the space had been opened for such an endeavour, Papazisi followed the emergence of gender identity recognition as a non-pathologising claim by trans movements (Papazisi 2014: 800).

she misses a part of their joined legal history. As already mentioned concerning Dokoumetzidis' analysis, such connections are necessary in order to understand how trans identities have been conceptualised and (il)legitimised in and through the medico-legal regime.[132] With that in mind, it should be noted that a thorough exploration of trans legal issues, such as the one attempted by Papazisi, would not re-appear for approximately another fifteen years and against a completely different background compared to the *fin de siècle* socio-legal context.

In this section, by presenting the works of two legal scholars that divert from the dominant legal theory of their era, I have showed that there were alternative frames available in order to conceptualise issues of legal gender. The fact that they remained marginal is a result of the ideological underpinnings of the dominant legal paradigm. Furthermore, these approaches are a testimony to my claim that the lack of critical historicity of legal gender has functioned as a limitation. That is, without an understanding of the multiple categorical conflations and the hidden realities in the legal texts, the remaining legal history fails to account for the existence of trans subjectivities and their entanglement with Greek Civil law. The present analysis functions reparatively to this limitation by combining Civil law texts with other sources and also by reading between their lines allowing, thus, an alternative legal history to emerge.

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[132] Note how this limitation manifests and reproduces itself: In the Opinion of the Advocate General Tesauro in *P. v S. and Cornwall County Council* there is a part that mentions the national European orders that allow, even through court proceedings, the change of civil status in cases of transsexuality. The text reads:

> *This is the case in France, Belgium, Spain, Portugal, Luxembourg and Greece (although in Greece only hermaphrodites have until now been permitted to change their civil status) (P. v S. Opinion of AG Tesauro, para 10).*

This reading, is based upon solely a narrative of black letter law or other official accounts regardless of parameters such as the interpretive work performed around these texts, the historical manoeuvring of medical and legal concepts and their strategic use by the subjects under their purview.

Closing Part B

Part B, which closes here, has created a critical genealogy of legal frameworks concerning gender variance in the Greek legal order of the twentieth century. By doing so, it offers an essential and lacking historical depth to the currently emerging scholarship on issues of gender identity and the law. In the two preceding chapters, a partial and somewhat chaotic archive has been composed corresponding to the porousness and complexity of the analysed debates. As noted in the introduction, this is the first part of the twofold contribution of the thesis.

Specifically, drawing from theories explored in Part A, chapter five recognises the role of sex, within the modern Greek bureaucratic state, as a legal category that naturalised the gendered *status quo* through processes of civil registration, legal categorisation and juridical interpretation of gender categories. Focusing on sex classification in Civil law and the role of "hermaphroditism" within it, it makes the argument that, in alignment with the broader state-project of standardisation and citizen legibility, Civil law scholars have strived for a simplified depiction of gender variance in the law. That is, through interpretative maneuvers, taxonomic conflations and naturalising discourses, they have presented an evenly sexed society assorted by a natural taxonomy.

Following the debate on sex (re)classification into the second half of the twentieth century, chapter six articulates some additional points concerning the increasingly emerging gender variant identities of that era ("transsexuals," "travestis", etc.). Specifically it is argued that the insistence on the "hermaphrodite" as a key category for the management of gender variance in the law was largely motivated by the hostility of Civil law scholars towards these emerging identities and their conviction not to substantiate them in the law. A hostility that, as we will see, was carried through, albeit occasionally transformed, into the next century and which will be discussed in Part C. Nonetheless, the reality of the daily interaction of gender-variant individuals (especially trans-feminine sex workers) with legal apparatuses and state authorities was established by the methodological detour through Criminal law fields, which juxtaposes the reality presented by Civil law

scholars. At the same time, through the side-stepping and persistent erasure of emerging identities by the law, gender-variant individuals were able to navigate this hostile terrain under the categorical disguise of “hermaphroditism.” Moreover, by utilising the concept of the “sex-changed subject,” which is not named as anything further, the regulation of transsexuality in Civil law took place without a preceding recognition of its existence by Civil law scholars.

Last, two Greek legal scholars, Giorgos Dokoumetzidis (1997) and Theophano Papazisi (2000) analyses of the issue were reviewed as the sole work in that era, and not only recognised trans identities but also unfolded towards a direction of depicting the hostility against them as a form of social inequality and claiming their legal protection under different frameworks. Although their analysis was marginalised by the dominant debates and did not have a practical effect at that moment, it served as a precursor for new legal debates that would emerge in the next century and its review offers a variety of valuable conclusions concerning the ideological and epistemological premises of this debate. Most importantly, its limitations, which derive from a lack of a critical overview of the historicity of the categories involved, exemplify my argument for the necessity of critical historical depth and specificity. This is precisely the reason for which I prioritised such an analysis before engaging with contemporary frames of gender identity regulation. Its complementary and reparative function provides depth and nuance to any debate concerned with legal gender in Greece. The next part of this thesis moves away from the historicity of gender variance regulation towards more recent discussions concerning trans-related legislation and trans legal realities.

Part C. Contemporary Legislation on Gender Identity

Part B of the thesis explored in two chapters the development of the legal debate around issues of sex (re)classification throughout the twentieth century. Moving from the first half of the century and the medico-legal quest for the hermaphrodites' "true sex" (chapter five) to the second half and the social emergence and legal concealment of the transsexual (chapter six), it has been established that such a regulatory archive proves necessary in order to understand the conceptualisation of legal gender categories and their management on a national level. By the change of the century, the judicial practice concerning gender reclassification had informally stabilised, gradually incorporating diagnostic categories that clearly refer to trans identities. Court decisions on such applications became codified in their reasoning, avoiding the long philosophical quests undertaken during earlier trials and creating an unofficial standardisation of the procedure for both applicants and judges.[133]

The thread of the legal negotiation of gender variance is picked up in this part within the contemporary frame of trans rights, as it has been analysed in chapter three. In the three chapters, which constitute this part, three different legislative pieces concerning gender identity are analysed with regards to the historico-political context that produced them, the state-level goals and political projects they served and their influence on trans lives as it is appraised through interviews and other sources. Three vastly different political contexts within a short period of accelerating developments showcase the different workings that can be performed by such legislation.

Specifically, anti-discrimination in employment, racist crime (a Greek legal equivalent of hate crime, see footnote 151) and gender identity recognition legislation are the focus points of this part of the thesis. Following the overarching argument analysed in chapter three about conflicting legal gender regulation

[133] Decision 6843/2007 First Instance Court of Athens, Decision 430/2013 First Instance Court of Patras, Decision 175/2006 First Instance Court of Rethymno.

practices, “which reflect different state projects - recognition, security, surveillance, distribution, reproduction,” I undertake a critical reading of this legislation (Currah 2013: 5). A reading that instead of relying on the legislator’s statement about what this law *does*, seeks an understanding of the complex and often contradicting workings that are performed on different levels by the introduction of such legislation in combination with the socio-political surroundings it is connected with.

Lastly, other than state-level goals and processes, these chapters rely also on the daily negotiation of legal reality by trans individuals. Through the insights provided by my interlocutors during the empirical part of the research I present the tangible results of these specific legislative pieces (not of trans-related legislation on a generic theoretical level) in the particular time and place they were introduced. Moreover, by discussing the daily interaction with state-apparatuses, and public/private sector services, as well as other aspects of trans legal reality, practices beyond or against the law emerge as tactics of survival. By incorporating this parameter in my text, I attempt to avoid a rigid reading of not only rights, but broader legal concepts and discourses. My aim is to grasp “how people negotiate these limits and opportunities in everyday life”, and in combination with the larger scale socio-political analysis of legal provisions, to produce a complex multidimensional understanding of trans-related legislation (West 2013: 17).

Chapter 7. (Anti)Discrimination in Employment: Legal and Political Imaginaries and the Forgotten Provisions

The present chapter traces the introduction of the first trans-relevant legislation (employment anti-discrimination legislation) that was transferred from the European into the Greek legal order. Its effects, within the given socio-political landscape, are appraised both on a juridical and social, even molecular level. To that end, insights from the conducted interviews are deployed to enable an understanding of trans employability issues and their connection with structural injustices in the distribution of life resources. Finally, in view of the disconnection with social and legal reality, the chapter explores the political workings of the legislation on a state level and its interconnection with political processes of Europeanisation and its ideological underpinnings.

7.1. Forgetting the Law

This section presents the legislative route through which employment anti-discrimination legislation (on grounds of gender identity) was introduced. This legislation was transferred a decade ago in the national legal order as part of the Greek state's international obligations and was not followed by any structural reforms, thus, remaining largely inactive, almost forgotten, and definitely at odds with the reality of gender variance and employability.

In 2010, the Greek parliament voted for Law 3896/2010 (GG A 207/8.12.2010) in adaptation of the 2006/54/EC directive of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. Law 3896/2010 states that "discrimination on the grounds of sex is also any less favourable treatment of a person due to sex change" (article 3 par. 2b, my

translation).[134] Six years later and under vastly different political circumstances, Law 4443/2016 (GG A 232/9.12.2016) was voted in adaptation of European Parliament and Council directive 2014/54/EU. This law came to amend Law 3304/2005 (GG A 16/27.01.2005) which had transferred into national law Council directives 2000/78/EC and 2000/43/EC, known as the Employment Equality Directive and Racial Equality Directive respectively, and included sexual orientation[135] among the protected characteristics. Law 4443/2016 added "gender identity or characteristics"[136] (article 1 par. 2b) as grounds upon which discrimination is prohibited.[137]

Fast forward to 2018, the results of anti-discrimination legislation were appraised by specialists at the international conference "Applying Non-Discrimination Law."[138] The introduction of the conference publication offers a comprehensive summary of the effects of anti-discrimination legislation in the Greek legal order several years after its introduction. The editors describe Greek reality as an "endless and constantly renewed" compilation of various forms of discrimination

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[134] The reference to a "sex change" is indicative of the overall lack of in-depth legal engagement with trans issues. The original English text of the 2006/54/EC directive (recital 3) used the term "gender reassignment" that was translated then in Greek as "sex change" (αλλαγή φύλου/allagi fylou).

[135] *Γενετήσιος προσανατολισμός/genetisios prosanatolismos* was the rather problematic phrasing in Greek that does not translate exactly to sexual orientation. This was amended with Law 4443/2016 to an accurate translation.

[136] The explanatory memorandum of law 4443/2016 states that gender identity as a characteristic is added for the protection of transgender individuals (*διεμφυλικά άτομα/diemfylika atoma*) defined as the individuals whose gender identity is different from their sex at birth. The term gender characteristics refers to intersex individuals (*διαφυλικά άτομα/diafylika atoma*) defined as the individuals who present since birth with sexual characteristics that do not fully fulfil their anatomical classification as male or female (Law 4443/2016, explanatory memorandum, part B2)

[137] This choice of the legislator has been critically appraised by Greek legal theorists who suggest that the special reference of gender identity and characteristics by this law might limit the broader protection awarded to trans and intersex individuals under the sex-equality principle and anti-discrimination legislation (Papadopoulou 2018: 198-199). Papadopoulou suggests a reading of both sources of protection as cumulative legal bases and the application of the stronger and broader one, which is the one provided by the interpretation of sex-equality by the European Court of Justice (e.g. *P v S and Cornwall County Council*) to include discrimination on the grounds of gender identity (Papadopoulou 2018: 199).

[138] For a detailed account of the legal premises of anti-discrimination in Greece, see the European Equality Law Network country reports on non-discrimination and gender equality (Theodoridis 2018; Koukoulis-Spiliotopoulou updated by Petroglou 2018).

on a social but also institutional level (Goulas & Kofinis 2018: 11). At the same time, anti-discrimination law as a field of theory but also as a body of litigation is depicted as vastly underdeveloped with some exceptions on the issue of sex-discrimination (meaning between cis men and cis women). Specifically, the writers suggest that "although the European directives that prohibit discrimination on the grounds of race, disability, religion etc. have already been incorporated in the Greek legal order since 2005, the court decisions that invoke them can be counted on the fingers of one hand" (Goulas & Kofinis 2018: 12, *my translation*). Indeed, since 2010, Law 3896/2010 has produced no litigation or any other significant policy changes concerning trans employability.[139]

Apart from suggesting that anti-discrimination legislation might not have deep roots in some national legal orders of continental Europe, Goulas and Kofinis (2018), who are both legal professionals (lawyer and First Instance judge respectively), also make another distinction. According to their analysis, the sex discrimination prohibition (again, meaning between cis men and cis women) came to reflect a decades long socio-political claim and was accompanied by institutional changes in administration and judicial authorities, structural legal reforms (e.g. the Family Law reform) and various supportive actions by the state and civil society (Goulas & Kofinis 2018: 12). That is not to say that Greece has managed to come close to gender equality but to describe how this legislation has been, at least to some extent, a functional part of the socio-legal reality. On the contrary, the prohibition of discrimination on other grounds (including "sex change" even if it was part of the sex equality principle) was simply transferred from the European order without any form of anchoring on a juridical and social level.

> *These directives were transferred to the Greek legal order through Law 3304/2005, that is, long after the expiration of their three-year deadline.*

[139] The Greek Transgender Support Association referred to this legislation in their press release concerning a case, which involved a trans man who transitioned while being employed in the police and made headlines in 2014 (GTSA 2014). While the person did manage to maintain his job, this case can hardly be indicative as it involves an openly trans person working in the public sector, which is in itself extremely rare.

> *This transfer could be characterised as a transplant into non-hospitable ground: for reasons different in each case, Greek society […] was not prepared to welcome these new grounds of discrimination and the Greek state, respectively, did not appear particularly willing to proceed to radical institutional changes that would signal a change in beliefs. The then new legislative framework was introduced within a state of overall indifference and lived its life almost completely lost in oblivion. To such an extent, that when its time came to be replaced by Law 4443/2016, the parliamentary and media discussions unraveled, taking more or less as a fact that this was the first introduction of these prohibitions of discrimination in the Greek legal order (Goulas & Kofinis 2018: 13, my translation).*

This passage is rather indicative of the process and the impact of transferring this legislation but also of the position of anti-discrimination and minority rights politics (let alone LGBTI+ politics) in the mainstream political agenda of the beginning of the century. It is precisely this position that might offer further insight as to the material failure of the transferred directives in the national legal and political terrain.

According to Nico Beger "any talk of discrimination is held up against liberal political, social, and legal discourses of acceptability in equal treatment" (Beger [2004] 2009: 112). That is, the claim against discrimination on new grounds is articulated in close proximity with the *perceived* (not necessarily factual, according to Beger) social unacceptability of discrimination on other grounds. Beger follows the argumentation of gay and lesbian activists in the European lobbying arena mobilising such schemas of unacceptability as they forward claims against discrimination on the grounds of sexual orientation. In this gesture, "the ideological reward anti-discrimination legislation promises is to fit homosexuality - and potentially transgenderism - into the *perceived* social and political climate" (Beger [2004] 2009: 112, *emphasis in the original*). If we take up Beger's suggestion that "the task of arguing discrimination can be successful only if it fits the generally perceived social and political climate", then the infelicity of the transferred

directives is rather unsurprising as they landed in a setting where each and every one of these grounds were widely normalised and considered mundane occasions of social injustice in the Greek context (Beger [2004] 2009: 112).

Indicative of the socio-political climate within which these provisions have existed for years is a recent incident involving a cross-dressing individual. In 2016, a (legally recognised as) male driver for the hospice "The Smile of the Child" was spotted in their parked car dressed in female attire by a resident of the area. This image was apparently so alarming that a resident called the police and, along with other residents, trapped the driver until the police arrived on the scene and proceeded to arrest the driver (Limnios 2016). Although no charges could be brought against the driver, the case was made public by the tabloids in a moral frenzy fuelled by titillating articles (Papanikolaou 2018c: 168). The president of the hospice that had employed the driver claimed to be shocked and proceeded to reassure the public that there had been absolutely no interaction between the driver and any of the children (Limnios 2016). Furthermore, as the article explained, after thorough police investigation, including a search of the individual's house, it was safe to say that it was a case of a psychologically disturbed person and not a paedophile, which of course was the assumption in the public discourse about the case (Limnios 2016).

The outcome of the case concerning the driver's employment is not known (although it is rather safe to assume their dismissal), as, after the sensationalised story was consumed and put aside by the media, the driver did not come forward in protest. Unsurprisingly, this person chose not to utilise the political support that was expressed by political actors[140] in order to establish a case of legal redemption that would, nonetheless, attract more publicity in an already hostile social environment (Papanikolaou 2018b). Instead, as in many cases, the gender/sexual non-conforming individual "often vanishes, as in this case, not only after being exposed through a shaming machine and being the object of institutionalised

[140] See for example GTSA's press release "No Transphobic Smile will be Tolerated" (GTSA 2016a) as well as SVEMKO's (Base Union for NGO workers) announcement "When the Smile is Whipped off…" (SVEMKO 2016).

homophobia but also as a political subject demanding rights, voice and public presence" (Papanikolaou 2018c: 169).

Papanikolaou (2018c) accurately poses a series of questions that emerge concerning the outcome of this incident:

> *Was this a set-up in the first place? Was the man summarily dismissed from his job because of this unfortunate confrontation with the inhabitants of Zofria and the police? Did he face a dismissal panel? Were all proper procedures followed in his contact with the police, media and his employers? What are 'proper procedures' today in a country like Greece and on an occasion like this? (Papanikolaou 2018c: 168).*

When placed within the framework of a legal study, these questions hint towards the limits of a solely black letter legal analysis concerning such issues within certain contexts and the demand for a more complex understanding of how injustice and oppression are legitimised. Firstly, the logic of anti-discrimination legislation itself needs to be interrogated here. Indeed, even in the birthing legal orders of LGBTI+ equality legislation there have been critical voices commenting both on the underpinning rationale of anti-discrimination legislation, as well as the perception of formal equality as a remedy for social injustices (Brown 1995; Spade [2009] 2015; Beger [2004] 2009).

Staying in the European terrain, Nico Beger analyses the "implicit problems" of the underlying logic of anti-discrimination legislation as an investment in the European liberal legal tradition and its politics of hope for change and progress (Beger [2004] 2009: 106-114).

> *The logic of hope, then, runs approximately like this: through anti-discrimination legislation, the hegemony of the juridical in European political culture will assure equal treatment and, thus, reap ideological rewards and material change for those suffering from discrimination (Beger [2004] 2009: 109).*

Beger proceeds to scrutinise the steps of this logic as a mechanism that cements the political hegemony of the juridical by centralising the legal arena as the terrain wherein historically dense social injustices and prejudice can be imagined to resolve through a legal prohibition.[141] At the same time, the definitional power of what constitutes discrimination still lies with the powerful side of the equation. Accordingly, the discriminated subject, although present in the debate as a victim, can never rise to the same agentic status as the other players in the game of meaning-production about discrimination (Beger [2004] 2009: 116). More importantly, the anti-discrimination schema not only re-affirms the hegemony of the juridical and re-legitimises state power itself but also renders invisible the law's (or the liberal state's) own role in the formation and perpetuation of social injustices (Beger [2004] 2009). Indeed, according to Brown, "the state achieves a good deal of its power through its devious claims to resolve the very inequalities that it actually entrenches by depoliticizing" (Brown 1995: 109). The effects of such structural inequalities are then ascribed to individual perpetrators as unacceptable behaviours through the consensus of what is perceived to be acceptable in the given socio-political climate (Beger [2004] 2009: 112).

Secondly, if in its "natural" legal environment, which might not necessarily have been welcoming *ab initio*, the anti-discrimination logic, is faced with such political impasses, in a social and legal environment that has not birthed but imported this legislation, the main narrative that anti-discrimination legislation holds for itself can

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[141] Furthermore, in this process, the subject of the anti-discrimination claim is represented as fixed and distinct in the social matrix and "in possession of an identity that is at least temporarily injured" (Beger [2004] 2009: 114). The shared experience of the, perceived as pre-existing, group that is recognised under this identity is then assessed "in comparison with those presumed to be in the possession of all available rights by virtue of belonging to the majority or the presumed average normality" (Beger [2004] 2009: 114).
This gesture, according to Beger, not only performs a normative function "but also necessitates the location of a discriminated subject" (Beger [2004] 2009: 114). In that sense, it contributes to the perpetual re-constitution of the protected subject *as* injured or discriminated against. Beger's line of argument echoes to some extent Wendy Brown's (1995) query whether "the relationship of the universal idiom of rights to the contingency of the protected identities [might] be such that the former operates inadvertently to resubordinate by renaturalizing that which it was intended to emancipate by articulating" (Brown 1995: 99).

be completely overturned. That is, the underlying conviction of such a legal declaration, according to Beger, is summarised as such:

> *The change of law is considered to have direct influence on everyday life in that under certain circumstances victims of discrimination have access to the courts to challenge injustice and access to legal recognition formerly denied. Eventually, this access will persuade the majority of the population to accept that discrimination is no longer acceptable (Beger [2004] 2009: 113).*

Nonetheless, as Shannon Woodcock notes for the import of LGBTI+ European legislation in Romania in a similar way, "this approach ignores and obfuscates the particular reality of decades of homophobic, racist and sexist legislation" and assumes that a simple aligning with European directives but also European sexual/gender identities "will assure 'rights' on the ground" (Woodcock [2011] 2016: 67).

This pertinent critique commands an analysis that is aware not only of the effect of the import of European legislation on a social, fiscal and political level but also of the ways in which things unfold "on the ground". In this vein, the next section explores the issue of trans employability as it was discussed during the interviews with my interlocutors. Having established in this section that the anti-discrimination legislation has led its legal life "almost completely lost in oblivion", the next section will claim that it has also remained marginal in the narratives of trans lives affected by structural exclusionary mechanisms (Goulas & Kofinis 2018: 13).

7.2. Remembering Reality

In this section, the appraisal of this anti-discrimination legislation is complemented by my interlocutors' intimate understanding of the impasses of trans legal reality in Greece. Their scepticism towards anti-discrimination legislation and its promise to establish better conditions of employment for trans people suggests an environment where employability often presents *a priori* as an impossibility.

Discussing the perplexing effects of carrying identification documents in contradiction with one's gender identity, the issue of finding and maintaining a job was the first to come up during the interviews. In case of such a discordance, the navigation of this terrain was described by my interlocutors as an impossibility. For trans women, this impossibility has been conceptualised, as seen in chapter six, as part of the social conditioning that has connected trans femininity with sex-work as the sole viable option.[142] In the words of the Greek Transgender Support Association:

> *In the workplace, transgendered individuals experience total exclusion. It is only a tiny minority of trans people who manage to have access to employment, once their identity is expressed outwardly.*
>
> *Especially for trans women, their majority, being excluded from the workplace, practices what is in effect enforced sex work. Trans men more often resort to hiding their identity, to be able to exert their fundamental and constitutional right to employment. (Galanou 2011).*

In the following excerpt, Lola insightfully demonstrates how the reality of searching for a job in an openly transphobic social context often translates into a pre-emptive pause, a folding back:

> *Lola: Hmmm…now, in what concerns non-sexual work, what I know from the source and not from some theory is that there is very little chance for a "normal" job, that is, to be employed somewhere. Ok, with rare exceptions like [she names trans people that have "normal" jobs].*
>
> *Me: I guess the part of having documents enters the picture again here?*

[142] It should be noted that until very recently, when it came to trans women, work meant almost exclusively sex-work (Dokoumetzidis 1997; Galanou 2011). This persists for trans women both as reality, to some extent, but also as a stereotype that that performs "a particular kind of work of legitimating violence and coextensively, institutional regulation and criminalization" (Aizura 2014: 137). A stereotype so deeply rooted, to the point that, in different occasions, my interlocutors recalled refraining from seeing themselves as trans (men or women) because they could not (or would not) fit in the stereotypic profile of the trans feminine sex-worker.

> *Lola: The part of having documents enters again a hundred percent! That is, even I am fully qualified for an X position, the thing would get stuck on the documents and probably never get unstuck. That is, I would not get that position, which I could have gotten if my documents matched my image and…well, everything else that comes with that. Cause this process is not like "aww…that's a shame [laughing] you don't have what you should on your ID card, we are terribly sorry but we cannot hire you." The actual process is far more brutal, far more insulting, far more degrading, immensely transphobic and you can basically hear anything from anyone and that's something that I don't think you need in a trans life, which is already very difficult given what the facts are right now in this country, this city etc. That is, it would seem to me very…I don't know if I would advise a trans woman that hasn't changed her documents to go out on a daily search for work and send out résumés every day and go for job interviews every week. I believe it would be an immensely harrowing process and one of these processes that more likely, let's say, ruin instead of balancing or, even less, improve the status of a trans life. [Interview with Lola in 2014].*

The solidity of the transphobia experienced on a regular basis, results in long periods of abstinence from searching for a job. In this sense, the pervasiveness of everyday transphobia, functioning on a pre-emptive level, does not even allow for what might be recognised as discrimination to unfold and potentially be conceptualised as such. This can be a fertile starting point to interrogate the work performed by this legislation within a context where transphobia prevails on the ground and where no other support networks are in place.

Indeed, what is explained above by Lola was mentioned as a reflex in other instances during the interviews.

> *Valeria: There is always the fear of what you can face in a job with that [the ID documents].*
>
> *Me: Would you tell me more about this?*

> *Valeria: Well, I won't send out a résumé for this reason. At some point that I was trying to get work as a server etc., I put down my birth-name in female form but if someone hired me, I would have had to explain what's going on. And that is a stress, that is a thing like…gender identity stops you on many levels. It stops you and it makes you think differently. (…) When it comes to work I believe it's hard. Not just hard, it stops you; it discourages you to search for a job. [Interview with Valeria in 2017].*
>
> *Nataly: The first reason that I won't do it [apply for an internship] is that I cannot show up with this ID. No way. (…) they could kick me out just for the ID, just the idea makes me freak out! I don't want to expose myself to such an extent (…) I should have searched again for a job to help myself and my mum but I simply cannot introduce myself carrying this ID, that is to carry it and tell them this classic line "eeehm…you know, there is an issue with my ID"…it is so…mundane. [Interview with Nataly in 2017].*

In the excerpts above, the obstacle appears to lay in the official documents, which, in the present legislation, can be amended more easily compared to the past. Is it, thus, a simple problem that has met its legal solution? Following the discussion closely, it becomes evident that what is implied is that the proper documentation serves as a solution *only when* transness is not apparent in any other way.

> *Sandra: What stresses me…is of course the issue of the job…it is embarrassing, I have been to so many jobs and sometimes I got so stressed and all teared up and couldn't even go in. I think of all these things…just the thought of it is scaring me -don't you smoke?*
>
> *Me: Yes, I smoke. Do you think changing your papers will help?*
>
> *Sandra: I will be freer then to…I won't have to explain to everyone. It's still stressful (...) I don't know how it works abroad, you can tell me how it is in England, but here if you are, let's say, a trans girl with not such a…good appearance you will still be treated like dirt anyway. In a job…no, that is*

> *very important here, I don't know abroad how it is. [Interview with Sandra 2017].*
>
> *Valeria: That [changing documents] won't help you so much in Greece, cause even if you show them a woman's ID card how would anyone hire you if you are not "passing" [in English]? [Interview with Valeria in 2017].*

For those that might be easily "read" (meaning recognised as trans), the promise of the anti-discrimination legislation to influence the (un)acceptability of their identity and, in any case, provide them with equal treatment within the labour market appears to be detached from their reality. Discussing with a legal professional, who is actively engaging with human rights cases and has represented trans clients, she notes:

> *Me: What about the issue of employment? Do you think it comes up…*
>
> *Legal Professional 1: …let me say, it is the biggest issue! It is not just a legal issue, it is mainly a social issue and you, as a researcher, know this better than me. That, first of all, trans people have great difficulty in accessing employment. I have yet to see a trans person working at a public service. Or in an office. I just haven't seen that. So yes, there exists the legislation that again in this case protects from discrimination but the reality is that...they are not employed in other jobs other than sex-work. That is not to say that there aren't any people with jobs it's just that they are…it's a small percentage [Interview with Legal Professional 1 in 2017]*

During our discussions, lack of access to employment and unequal treatment often (especially for trans women) became difficult to isolate, to pinpoint, to read separately from being trans.[143] Even those incidents that were described to me were not framed as disruptive instances of discrimination but as casual moments of contact with the surrounding world, sometimes undistinguishable from life itself.

[143] For more on lack of access to employment see Galanou 2016; Theofilopoulos 2016; GNCHR 2015.

Incidents that were considered, as Nataly said, "so mundane" that their legal prosecution seemed like a task not just impossible but also of no use.

> *Me: Did you think about doing something legally when that [she had just described an incident of less favorable treatment in the workplace] happened?*
>
> *Nataly: You mean like the anti-racism laws [meaning the legislation against hate-crimes]? I didn't want to do that…*[144]
>
> *Me: Wouldn't you use any of these kind of laws? For work issues…*
>
> *Nataly: Look, maybe if I was in physical danger. I mean I don't think that I would take the time if some jerk just didn't like the way I am and has stereotypes, to sue him because his mother didn't teach him anything and he has no hint of education in him. I cannot…I think you will do harm to yourself if you do this all the time. Because it happens all the time, in ten times won't it be at least five times? Won't it be at least half the times? [Interview with Nataly in 2017].*

As the discussion about work and trans identity in Greece proceeded and I tried to engage my conversation partners with the idea of anti-discrimination legislation, the very mention of this legislation often appeared alien. Although there were moments when, in their responses, some of my interlocutors contemplated using

[144] It became apparent during our discussions was that my interlocutors (other than the legal professionals) were generally not aware of the existence of an anti-discrimination provision for trans employment in Greece. Hence, our discussion is always about "anti-racism law" meaning the legal framework against hate crimes, whose existence is more widely known. This echoes Goulas and Kofinis' (2018) argument about both authorities and the public having literally forgotten these provisions. Indeed, according to the data of a research conducted in 2012 by the European Union Agency for Fundamental Rights (FRA), only 23% of 2.760 LGBT adults were aware of the existence of such a provision in Greece (Fra 2014; Theofilopoulos 2016). Taking into account that the participants in such a study represent the most visible (thus, accessible) and active (thus, informed) part of the LGBTQI communities, it is safe to assume that this percentage drops much lower in broader gender/sexual non-conforming populations. At the same time, since the question of employability emerged during the interviews as one of particular importance, this accentuates the dissonance between reality and the legal imaginary.

such a legal process, in the end, every other solution seemed more realistic and tangible.

> *Philip: Maybe if I got very mad about something…maybe I would consider it [using any legal process]. (…) But I have never thought about this.*
>
> *Me: How about when you discuss this with other [trans] guys? Is there the concept that you know, I can ask protection from somewhere?*
>
> *Philip: No…most of them are all about what they can do on their own to face their problems, not like "what is there in the law that might help me…"*
>
> *Me: Not even on a job level?*
>
> *Philip: No, no…for example I know from a guy that hasn't changed his ID card and needed to get a job as a delivery guy or something, he just ended up working at a job where they hired him without asking for ID or anything. [Interview with Philip in 2017].*

The FRA research report on "Being trans in the EU" notes similar reasons given to explain the respondents' hesitancy to report incidents of discrimination:

> *The reasons for not reporting are diverse. An overall large number of respondents are: convinced that nothing would happen or change (62 %); feeling that it is not worth it (47 %); concerned that the incident would not be taken seriously (40 %); or unwilling to reveal their sexual orientation and/or gender identity (38 %). Nearly one in three (30%) did not know where to report their experience. Emotional reasons are also mentioned, such as shame, fear and being emotionally upset (FRA 2014: 47-48).*

In the absence of all other means to support trans employability,[145] the reality described went along the parameters of a structural social injustice that translated

[145] The FRA research report on "Being trans in the EU" points out the connection of other positive measures with the willingness to report instances of discrimination in employment:

> *The data show that in general, however, the different country reporting rates hinge on which countries promote positive measures towards trans people, as indicated by the survey*

to a restricted access to life resources (Spade [2009] 2015). That is, a reality where trans people are often not able to complete their education, are not considered part of the working force or even feel it is safe and meaningful to search for a job. These and other similar restrictions compile the environment within which transphobia becomes not an instance of discrimination but rather a catholic condition working against the distribution of life resources.

Overall, it has been established in the last two sections that the introduction of employment anti-discrimination legislation did not produce institutional changes, litigation or any significant shift in the socio-political conditions of everyday life.[146] The question then becomes: what is enabled in this context through the transfer of such legislation into the national level? The next section closes this chapter by thinking about this question in proximity to Europeanisation processes.

7.3. Making Sense of a "Success"

As has been demonstrated, almost a decade after the first employment anti-discrimination legislation, inclusive (even if problematically and partially) of trans individuals, this kind of legislation continues to sit uneasy within the national legal order. Unused and in blatant discordance with the social and legal reality of transness in Greece, it raises questions about the process of its transfer and the political work performed by it. This section closes the chapter by suggesting that, other than the obvious reason of complying with its European obligations, the Greek state adopted this legislation as part of the political project of placing itself among modern European states.

As Carl Stychin notes, "rights to sexual equality in the workplace have been central to the 'social' dimension of Europe, and to the entrenchment of a discourse of

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respondents. When respondents recognize such positive measures as fairly or very widespread in a country, the rate of reporting of discrimination experiences in the year preceding the survey reaches 23 %. When positive measures are very or fairly rare in the country, reporting rates remain at 14 % (FRA 2014:47).

[146] There is a discussion about the symbolic value of the legal recognition of an oppression (Williams 1991, Brown 1995, Spade [2009] 2015), which will not be explored here since the specific provision did not have significant public coverage (in contrast with the legislation that will be examined in the next chapters) and was not registered as one of the big "victories" of the wider LGBTQ communities.

rights around gender issues" (Stychin 1998: 123). Initially having a narrower focus on the principle of equal payment, the legal scope and the ideological discourse of sex/gender equality in the workplace expanded throughout the years, becoming salient in debates concerning European integration (Stychin 1998: 123). In recent years, for countries in the margins of Europe, the adaptation of gender equality legislation, and more recently LGBTI+ rights, has been one of the ways of establishing themselves as "civilised", meaning European, states (Kulpa [2011] 2016; Binnie 2004; Kahlina 2015). This creates a complex weaving between Europeanisation and modernisation discourses and the state-specific historicities of such discourses.

In Greece, "gender equality promotion appeared in GEP [Greek Employment Policies] only after EU accession in 1981" (Zartaloudis 2015: 534). Anti-discrimination and equal payment legislation were one of the main routes of this promotion from a European to a national level. Nonetheless, this legislative transfer was not mirrored in Greek employment policies for many years to come. Research on employment policies shows that the organisational changes that finally appeared in the late 1990s "were linked to the need to improve the absorption of ESF [European Social Fund] funds and not to the promotion of GM [Gender Mainstreaming] in GEP [Greek Employment Policies]" (Zartaloudis 2015: 540). This suggests that the introduction of anti-discrimination and equality legislation has often served the sole aim of not exposing the Greek state as non-compliant to its international obligations. Accordingly, its application and social impact, has varied depending on political and fiscal strategies such as, in the example above, the conditionality of European funds.

Nonetheless, unlike in recent years, during the time of Greece's ascension in the EU in 1981, pressure from European institutions and organisations had not yet been channelled towards LGBTI+ issues and there were no relevant NGOs or research bodies on a national level. The modernisation debate as it was founded during the mid-1990s mainly revolved around issues of financial and administrative

rationalisation.[147] In this context, there was no political gain for parliamentary politicians of the centre (the "modernisers") in introducing this aspect of Western liberalism to a society and a parliament that were already resisting modernisation on many levels.[148] Although the political clashes around Europeanisation and modernisation were dense in gender and sexual connotations (e.g., through the role of traditional family norms in nationalist rhetorics) LGBTI+ politics *per se* had no clout during this era (Papathanasiou & Apostolidis 2014). Accordingly, LGBTI+ politics remained outside the main political agenda for years while the emergence of an abundance of LGBTI+ and queer political agents after the turn of the century

[147] During that period, "modernisation" became both a programme that included the rationalisation of the Greek state economy, which at that point was far from being aligned with European capitalist models, as well as an ideological trope that promoted the Europeanisation of Greek identity (Stafylakis date n/a). The economic reforms of the period 1996-2004 (including privatisations of public services that caused intense reactions from trade unions and various political forces of the left) coincided with the preparations for the Olympic Games of Athens 2004. To that end, large-scale works that radically altered the country's infrastructure were undertaken in those years relying on foreign investments connected to the Olympic Games as well as National and EU funds, especially since Greece joined the Eurozone in 2001 (Stafylakis date n/a; TPTG 2011; Dalakoglou & Kallianos 2018). These "golden years" for Greece's infrastructure, that would later contribute to the 2008 economic collapse, led to an ideological embracement of modernisation from the parts of Greek society that not only enjoyed financial gains from its administrative impact but also felt inclined to form cultural ties with a European version of Greekness.

[148] Conversely, passionate discourses against modernisation as well as against Europeanisation *as* modernisation flourished across the political spectrum (Stafylakis date n/a). As in other Balkan countries, modernisation and Europeanisation processes (oftentimes as one and the same) were resisted both by right-wing nationalism as a threat to cultural and religious national traditions but also by left-wing (communist and non-communist) and other political forces as a project of economic and political imperialism. Specifically, the conservative right wing along with the Orthodox Church of Greece formed a common front of cultural traditionalism that opposed the integration with European institutions as a threat to the Greek national values (Stafylakis date n/a). Various reforms were met with negative reactions by this front with the pinnacle being the notorious standoff between the government and the Church concerning the declaration of religion on national identity cards (Stavrakakis 2003; Roudometof 2005; Makrides 2005; Fokas 2006; Molokotos-Liederman 2007).
At the same time, the crucial privatisations and other reforms that dismantled labour rights, which have been secured by past working struggles, established modernisation and Europeanisation as hostile processes for the Greek left wing as well. Parliamentary left-wing opposition as well as extra-parliamentarian political movements opposed these processes on varying grounds, sometimes leaning towards a left-wing patriotism and other times trying to resist it (Stafylakis date n/a). Labour rights, pensions and wages were a major aspect of this opposition but there were other points of conflict concerning the multiple implications of the 2000s modernisation agenda. Examples of such points of friction might be found in the debates concerning the financial and political dependence of Greece on external institutions, the participation in military operations due to international agreements, the surveillance technologies that were forced upon (and strongly resisted by) the Athenian population during the Olympic Games and others (TPTG 2011; Dalakoglou & Kallianos 2018).

was ignored by most political forces.[149] In other words, at that point and until very recently, no one "needed" LGBTI+ politics and legislation in Greece other than those who actually needed it.

It was within this climate of political indifference, or rather the refusal of political/legal/social acknowledgement, that the first trans-related anti-discrimination legislation appeared in the Greek legal order. As I have demonstrated at the beginning of the chapter, bound by its European obligations, the Greek state has transferred the principles of non-discrimination in employment on the grounds of sex, sexual orientation and (later) gender identity into the national legal order through overdue and half-hearted adaptations of the respective directives. On a state level, ticking the legislative boxes of gender equality, while maintaining patriarchal gender values in everyday life and institutional structures, has proven a win-win scenario wherein both wins are for the Greek state. Other than fulfilling any fund conditionality clauses, as described earlier, this practise supported the Greek state's self-narration into a modern European state within the European arena while, at the same time, maintained its ethnosexual imperatives in the national arena.

This can be comprehended within a broader project of national self-narration (Bhabha 1990) wherein the Greek state attempts to situate itself away from geo-political regions that are not, in their own supposed belated temporality, able to "catch up" with the "civilised" West. Historically, the constant effort to situate Greece geopolitically in a modern time and place has been achieved by either

[149] Other than the indifference of the "modernisers," anti-modernisation political discourses across the political spectrum were not keen on promoting an LGBT angle either. On one hand, conservative right-wing powers are historically opposed to gender and sexual "deviance" and were anyway resisting modernisation by folding back into traditionalism, Orthodoxy and nationalist populism. On the other hand, left-wing (communist and other) as well as extra-parliamentarian groups chose to ignore, marginalise and/or oppose this set of emerging political claims. Other than the resistance within left-wing and anti-authoritarian analyses towards a critique of traditional sexual values, there was also an unresolvable conflict of political strategies on an institutional level. That is, a turn towards European policies and jurisprudence, which is the main political leverage LGBT activists have used in the peripheries of Europe (especially acceding countries) to claim sexual minority rights (Kahlina 2015), would conflict anti-modernisation and anti-EU politics that were structural part of the left-wing agenda.

distancing itself from regions that are marked as "delayed" and "backwards", such as Turkey and the "East", or by assuming a leading role among the "less" European countries of the Balkans (Huliaras & Tsardanidis 2006; Rasku 2007).[150] Nonetheless, since the nineteenth century, the liminal geopolitical location of the (then newborn) Greek state and the contradicting character of the cultural and political elements brought by classical, Byzantine and Ottoman traditions has complicated the task of self-narration posing the question of national identity *as* the "East" vs "West" question (Molokotos-Liederman 2003; Rasku 2007).

> *Greece is a particularly interesting example, having border-countries that are continuously placing themselves. It lies at one of the traditional imaginary borders of East and West. Europe and Asia as continental metaphors are regularly activated in the Greek-Turkish relations and made more intense because of the conflicting territorial disputes between the countries. Greece's southern sea-border faces Africa, and therefore it is also on the border between North and South. The country is a member of the European Union and NATO, but there are still debates whether Greece is truly European or not. Although Greece has been a member of the EU since 1981, it has always been perceived as a geopolitical island as it has always been surrounded by states that are not members of the EU. […] Greece is also the southernmost part of the Balkan area. That is why, from time to time, the question has been raised whether Greece is a Balkan state in Europe – or a European state in Balkans (Rasku 2007: 10).*

In this project, the traditional ethnosexual narrative becomes a central trope for establishing a selective way of belonging which shifts between East and West, Balkan and European, claiming superiority to both. Eleni Varikas, commenting on the formation of Greek national identity from the late 18th and throughout the 19th century, writes:

[150] Huliaras and Tsardanidis point out the rapid shifts in geopolitical codes within the Greek state's geopolitical vision and its understanding of the Balkans (Huliaras & Tsardanidis 2006).

> *National identity was thus constructed through a complex and often contradictory process of differentiation that situated gender at the center of national self-definition and its (in)stability: differentiation from "the Turk", the barbarian par excellence, to whom the Greek opposed his "western" identity; differentiation from the licentious and effeminate aspects of "the Franc" (the European), to whom the Greek opposed his (sic) healthy national traditions; differentiation between feminine and masculine through association of the former with the negative aspects of both the West (immodesty, luxury, moral levity) and the Orient (ignorance, backwardness, irrationality) and of the latter with the positive aspects of both western and national traditions (Varikas 1993: 271).*

Varikas' (1993) analysis brings together gender norms and national identity in this double play (too western for the Orient – too oriental for the West), which has been the cornerstone of Greek citizenship and its inherent ambiguity (Rasku 2007; Carastathis 2014).

In this sense, even if the Greek state was not invested specifically in LGBTI+ rights, the introduction of employment anti-discrimination legislation, regardless of its disconnection from social reality, was part of such a broader state project. That is, the employment anti-discrimination legislation not only played into its own progressivist "logic of hope" but also it fulfilled the Greek state's self-narration as European (Beger [2004] 2009: 109). What is marked as a "success" in this process of Europeanisation does not necessarily translate into much more than reaping the fruit of this success on a state level. Indeed, as has been established, this legislation achieved its state-level modernisation goals in the early 2000s without any structural change in the socio-political, legal or administrative status quo. When placed within such an analytical frame, it appears unsurprising that the anti-discrimination legislation had no effect on the conditions of trans employability, thus, answering the question set out at the beginning of this section.

Throughout this chapter I have examined the (non)application of employment anti-discrimination legislation and its detachment from trans understandings of

employability issues in Greece. A detachment which bears witness to the dissonances between the (European) legal imaginary of anti-discrimination and localised social realities. Having framed a specific piece of legislation within broader projects of Europeanisation and modernisation, I have managed to critically discuss its particular workings on different levels. In a similar vein, the next chapter, traces the introduction and effect of the Greek legal equivalent of hate-crime legislation within the dramatically changing socio-political terrain of the last decade.

Chapter 8. Navigating the Crisis: (Legal) Violence and (State) Racism by any Other Name

Following the financial crisis of 2008-2009, a new socio-political terrain was formed on a national and European level. The rise of social (including LGBTI+ and queer) movements that came as a response to the enforced measures of austerity was followed by a backlash of state repression and right-wing violence. As will be established in the first two sections of the chapter, the deepening crisis established a new political paradigm of a perpetual state of emergency that was enabled through (state) racist discourses and the consolidation of an affective economy of hostility for racial, gender, religious and sexual Others (Athanasiou 2012; Carastathis 2015; Filippidis 2018).

The third section of the chapter follows the much-contested introduction of anti-racist legislation,[151] which also extended legal protection on the grounds of sexual orientation and gender identity. The introduction of this legislation initially might appear rather paradoxical on the part of a governing regime, which - as I will show in a schematic way - relied on the way "the managerial and technocratic logics of ethno-neoliberalism intertwines with the micropolitics of moral panic that intensifies xenophobia, patriarchy and homophobia" (Athanasiou 2012: 38, *my translation*). The paradoxical character of the reform is mirrored also in the discussions with my interlocutors who, in section 8.4, embark on an ambiguous and aporetic hypothetical engagement with the concept of legal protection from racist crime and specifically its transphobic aspect.

[151] The concept of hate crime does not exist in the Greek legal order as such. Instead, the concepts of "hate motivated crime" has been used and later that of "racist crime" or "crime with racist characteristics" (omitting the affective element of hate on part of the perpetrator and focusing on the characteristics of the victim), which echoes the common practice in Greek political culture to use the term "racism" "as a superordinate or 'umbrella' concept that includes 'homophobic' and 'transphobic' but also 'misogynist,' 'ageist,' 'ableist,' and class- or status- based prejudice, discrimination, and oppression, in addition of course, to that based on 'race' or 'ethnicity'" (Carastathis 2018b: 265; Riedel 2009). Accordingly the legislation discussed in this part, is known to the public as "anti-racist bill/law," the term under which the public debate was framed and has come to include all recognised discriminatory practices.

In view of this paradox, in the last section of the chapter, I query the concrete work performed by this legislation in the context it was introduced in. I will suggest that the appraisal of such legislation needs to be informed by a critique of its potential to re-legitimise criminalising operations against marginalised populations. A critique that traces back to a broader problematisation of any legal regime's authority to justify its own violence. Overall the chapter adds to the argument that gender identity regulation by the state does not follow a unique and coherent rationale. On the contrary, legislation on trans (among other minorities) issues can serve different state-projects, some of which might be directly opposed by the stated imperatives of the introduced law.

8.1. The End of the World as We Know it

A full decade since the financial crisis of 2008-2009 and its aftermath, it has become rather tiresome to try capturing the Greek Crisis (with a capital C) in a few words, whether for academic or other reasons. What is crucial for, even vaguely, comprehending this period is that the term "Crisis" has come to include, other than the financial crisis itself, the devastating effects of the management of the crisis and, eventually, more than one crisis (the debt crisis, the "refugee crisis", the legitimation crisis of political parties and so on). A few of the instances marking the last decade are the collapse of the decades long political regime, the IMF intervention, dramatic austerisation, multiplying percentages of unemployment, thousands of unaccounted for deaths along the country's borders, militarised police operations against *anomie*, a surge in racist violence and the election of the neo-Nazi Golden Dawn party in the Parliament.[152]

Greek commentators have repeatedly noted that, as impressive as the quantitative and statistical representation of the last decade of austerity might be, it proves insufficient to describe the catholic nature of its political, financial, social and

[152] For critical accounts of different periods and aspects of the Greek crisis see: Vradis & Dalakoglou (eds.) 2011; Athanasiou 2012; Kaika 2012; Athanasiou & Tsimouris (eds.) 2013; Tsilimpounidi & Walsh (eds.) 2014; Brekke, Dalakoglou, Filippidis & Vradis (eds.) 2014; Leontidou 2014; Bratsis 2016; Tsilimpounidi 2016; Dalakoglou & Agelopoulos (eds.) 2018; Roufos 2018; Brekke, Filippidis & Vradis 2018.

emotional effect on a ground-level (Tsilimpounidi 2016: 2; Roufos 2018; Vaiou 2014b). With capital destruction climbing to levels equal to those faced by European countries after World War II (Roufos 2018) and no part of life in Greece left untouched by the shifting conditions, "it is the first time in Europe that an entire generation faces such catastrophic alterations to quality of life, in times of peace" (Tsilimpounidi 2016: 84). Overall, for those living in Greece during this era, "from the onset, the crisis forcefully illustrated how it would shake to the ground our world as we knew it" (Brekke, Filippidis & Vradis 2018: 13).

By 2010, the first *memorandum*[153] had been signed and the situation appeared grim. Nonetheless, the period 2008-2012 was also marked by the rise of social movements that were resisting austerity and cultivating a radical culture of political organisation (Bratsis 2010; Vradis & Dalakoglou 2011; Arampatzi & Nicholls 2012; Leontidou 2012; Tsilimpounidi & Walsh 2014; Athanasiou 2014). Following the polymorphous political mobilisations that made Greece a focus point for the European and global Left, a new dogma of public order and security started materialising through extreme policing techniques and militarised repressive operations (Dalakoglou 2013; Kotouza 2018; Fillippidis 2018). The perpetually re-constructed "state of emergency" became the discursive vehicle for the introduction of the dogma of "zero tolerance" that became central in the dismantling of political movements, the battling of civil disobedience, the securitisation of public space and the biopolitical management of migrant populations (Athanasiou 2012; Filippidis 2018). This new national narrative eventually shaped into a set of discourses and ideological apparatuses that, in turn, have materialised in various settings. That is, more than a fiscal impasse and an occasion for structural reform, the crisis became a political paradigm and an

[153] The term "memorandum" refers to the adjustment programme documents (Memorandum of Understanding, MoU) signed by Greek governments as part of the bailout loans and financial support by the European Commission, European Central Bank and International Monetary Fund (altogether known to the Greek public as the *Troika*). Within the crisis lexicon, the term "memorandum" has become a metonymy for harsh austerity measures. Along this axis, political powers have been conceptualised as "pro-memorandum" and "anti-memorandum" depending on their stance towards European Institutions' terms of negotiation concerning the Greek debt and structural reform.

ideological framework that reconfigured drastically the socio-political conditions (Athanasiou 2012; Brekke, Filippidis & Vradis 2018).

Other than state policing and anti-migrant operations, 2012 brought an amplification of street-level racist violence but also a broad legitimisation of its mainstream political expression. Golden Dawn was elected in the parliament and went from a small militaristic Nazi faction to being recognised as a socially accepted power of parliamentary and street-level politics (Dalakoglou 2013; Ellinas 2013; Athanasiou 2014). The increasing flows of people arriving along the south and east borders of the country were used as pretext for the transformation of an openly anti-migrant sentiment to everyday violence.[154] Para-militia groups of Golden Dawn patrolled areas of Athens on a daily basis, "cleansing" them of migrants, destroying non-Greek owned shops, raiding houses and unofficial mosques, and beating and stabbing migrants sometimes to death (Human Rights Watch 2012; Dalakoglou 2013, Carastathis 2015, Brekke 2018).[155] At the same time, the state launched a series of anti-migrant operations with the largest one being the - staggering in its size and violence - operation "Xenios Zeus" (Filippidis 2018). Right-wing and institutional racist violence on a massive scale were legitimised through a variety of overlapping discourses concerning internal and external threats to the state's sovereignty and the nation's health and homogeneity (Athanasiou 2012).

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[154] That is not to say racist ideologies and violence did not exist before the crisis in Greece. Carastathis (2015) notes that analyses, which establish a cause-and-effect relationship between the crisis and racist imperatives tend to ignore not only the nationalist project that has constructed the Greek nation *as* homogenous during the twentieth century (see footnote 44) but also the contemporary legacies of racism within the Greek society. Such examples are the racism against migrants since the early 1990s along with their systematic exploitation (including the sexual exploitation of women migrants from CEE and later African countries), the rampant anti-Albanian discourses and violence as well as the socially legitimised anti-Roma stance (Carastathis 2015: 81). Nonetheless, the new ideological elements of the crisis political vocabulary and the rapid increase of violence on the streets can be said to mark a paradigm shift within Greek racist legacies.

[155] The project "X them out! A black map of Athens" (created by the Rosa Luxemburg Foundation-Office in Greece and the NGO HumanRights360) has generated an interactive map of Athens wherein X marks the spot of racist attacks, whose brief description is accompanied by illustrations of the incident designed by visual artists collaborating with the project. Although the project can "visualise just a small part of this 'topography of violence'" the stories and images achieve in transmitting part of the affective imprint of the rise of fascist violence in the city (valtousX website).

As feminist and other critiques have demonstrated, such violence and precarity were distributed along (among others) the axes of nationality, race, gender and sexuality producing intersections of intensified vulnerability (Athanasiou 2012, 2014; Vaiou 2014a, 2014b; Carastathis 2015; 2018; Tsilimpounidi 2016; Filippidis 2018). Racist, sexist and homo/transphobic rhetorics and practices flourished while their relationship with the crisis was presented as causal, transferring the responsibility to those who were deemed as a threat to the national body (Athanasiou 2012; Carastathis 2015). Moral panics and hostile discourses towards racial and gender "others" became entangled with the technocratic crisis' management in ideological formations that legitimised the "reinvigorated routine of national masculinity" as a means of protection and resistance against internal and external threats (Athanasiou 2012: 38; Carastathis 2015; Papanikolaou 2018c).

At the same time, the conditions of existence of LGBTI+ and queer politics started changing at an accelerated pace. That is, simultaneously with the unfolding of the crisis and the rapid worsening of material conditions, ran a parallel process of LGBTI+ visibility in new terms (Papanikolaou 2018c). While the political generation of LGBTI+ and queer groups of the period 2000-2010 was characterised by the effort to claim legitimisation and space within social movements and the public sphere, these dynamics gradually started changing along the shifts in broader political dynamics (Marinoudi 2018). The eruption of social movements and, later on, the emergence of NGOs and other civil society actors due to the "humanitarian crisis" were rapidly transforming LGBTI+ politics and its place in the national political agenda. Moreover, new digital media platforms and the international cultural and political currency of LGBTI+ and queer identities had opened up a vast horizon of possibilities.

In this time of proliferation of NGOs on a national level (Theofilopoulos 2018), the transnational mobilisation of policy-oriented Greek LGBTI+ groups and the channelling of funds and institutional support towards LGBTI+ issues on a European

level formed a new political terrain.[156] With funds from European sources channelled towards LGBTI-related projects and groups, new political formations emerged and already existing formations altered in close connection with a rapidly expanding civil society. Overall, other than the space that was being established through political action and social presence, LGBTI+ groups started to claim space as lobbying agents within law-making procedures taking the first steps into a more professionalised kind of politics. This means that in a complex collusion of socio-political currents, LGBTI+ politics were gradually being institutionalised and included in the mainstream political arena while, at the exact same time, the grim political conditions were becoming fertile ground for a renewed investment on gender hierarchies and a spectacular revitalisation of gender violence (Athanasiou 2012; Vaiou 2014a; Papanikolaou 2018b).

This was, in very broad lines, the overall socio-political context within which the much contested legislation against racist crime was repeatedly discussed until it was finally passed in 2012, as will be discussed later, by a mainly right-wing coalition government. With that in mind, the next part of the chapter has two aims. The first is to exemplify some ways in which the processes described above materialised on the ground through various state apparatuses and ideological discourses. The second aim is, by analysing concrete instances of governance, to sketch out the state agenda of that time, thus making obvious the paradoxical, at first glance, choice of a right-wing government and an overall racist state to introduce the anti-racist legislation. In this sense, the following section is a (rather significant) parenthesis that will allow me to complicate and ground, politically and even affectively, the analysis of "racist crime" as a concept and the effects of this specific anti-racist legislation within its context.

[156] Reports on the issues of LGBT discrimination had already started to be commissioned and published by European institutions (such as European Union Agency for Fundamental Rights) reporting the lack of any infrastructure, research or legislation in Greece (Hatzopoulos 2007; Pavlou 2009; Hatzopoulos 2010).

8.2. In Parenthesis

> *Can we read the workings of social power precisely in the delimitation of the field of such objects, objects marked by death? And is this part of the irreality, the melancholic aggression and the desire to vanquish, that characterizes the public response to the death of many of those considered "socially dead," who die from AIDS? Gay people, prostitutes drug users, among others? If they are dying or already dead, let us vanquish them again. And can the sense of "triumph" be won precisely through a practice of social differentiation in which one achieves and maintains "social existence" only by the production and maintenance of those socially dead? (Butler 1997: 27).*

In 2012 and during a period of intense political instability in Greece, the provisional coalition government of ND/PASOK/LAOS launched a series of nightmarish "cleansing" operations against the "infectious" bodies of racial/gender/sexual/national Others under the orders of the Minister of Health, Andreas Loverdos (Mavroudi 2013). Loverdos, a Constitutional Law expert himself, as Minister of Health had been meticulously constructing for months the figure of the "illegal immigrant" as a threat to public health, infamously known in the public opinion as a "hygienic bomb" (Filippidis 2018: 79-82). Furthermore, the Minister of Health went one step further in gendering this discourse by declaring (against all statistical evidence) that female migrant sex-workers of African origin were spreading HIV within Greek society and should, thus, be deported (Athanasiou 2012: 31, Mavroudi 2013). As Filippidis (2018) notes:

> *(…) using the safeguards offered to him by the dominant patriarchal meanings he utilised the field of female sex work in particular in order to construct the image of a biological enemy within; to construct, in other words, only one of the crucial "testing grounds" upon which the reconstruction of national unity would be attempted during that difficult time of crisis - and the nation-rebuilding this required (Filippidis 2018: 82).*

After cultivating for several months racially oriented fear in its purest form (that of physically invasive and biologically infectious Others), Loverdos, in a joint press conference with the Minister of Public Order, Michalis Chrysohoidis, announced the compulsory hygienic examination of migrant populations following all possible procedural and discursive routes that could imply urgency (Filippidis 2018: 82-83). Sowing panic and reaping legitimation, Loverdos introduced on the same day the notorious Public Health Decree 39A (GG 102/B/02.04.2012), which included provisions introducing forceful hygienic controls on migrant populations, the construction of migrant detention camps, health requirements for private houses used by migrants, a health certificate issued for migrants and other similar regulations (P.D. 39A).[157]

This became the legal ground for the collaboration of public health and police authorities in a medico-legal mechanism of population-control that expanded from detention centres along the territorial borders of the country to the very centre of Athens and all the way into the supposedly private space of migrant residencies. Moreover, it became an additional political ground for the intensification of racialised daily violence and the fortification of (state and other) discourses of racism in its primordial form, that of biology. Through this nosology lexicon, that is, through "the return to the political anatomy of the body: the governing of the body in danger and the governing of the dangerous body," medicalised racism and the overall medicalisation of the crisis itself were established as a dominant governance paradigm (Athanasiou 2012: 45).

Having set the ground for the exemplary *biological enemy within*, that is female, African, allegedly seropositive sex-workers, Loverdos orchestrated in the eyes of the public the worst-case scenario for the national body. A few days before the crucial national elections of 2012, in a police-hygienic operation that came in waves, hundreds of female alleged sex-workers were rounded-up on the streets of Athens and forcefully tested for HIV. Held under gruesome conditions, the women

[157] Decree 39A was repealed in 2013 only to be reinstated later on the same year until 2015 when it was abolished again.

were tested (using what is called "rapid tests") without or against their consent in different locations such as vans or police cells. The outcome was blurted out to them in the presence of the police or by the police themselves (Mavroudi 2013).[158] Those found seropositive were arrested and prosecuted under the charges of illegal prostitution and serial grievous bodily harm with intent combined with serial attempts of the same act; a felony charge that lead to their pre-trial imprisonment without any evidence other than seropositivity, which was hence openly criminalised (Mavroudi 2013; Gkresta & Mireanu 2016). The state prosecutor, in collaboration with the Hellenic Centre for Disease Control and Prevention (*ΚΕΕΛΠΝΟ*), ordered the publication of their photographs and personal information in the name of the Greek family and public health and, more specifically, to "protect the Greek family men" that might have been in contact with them (Psarra 2012a; Athanasiou 2012; Mavroudi 2013; Gkresta & Mireanu 2016).

In a general atmosphere of emergency, the Minister announced to the Greek society the verification of his gruesome prophecy:

> *The hygienic bomb of AIDS in no longer confined within the foreigners' ghetto as it was the case until recently, it has now escaped the ghetto. Me personally but also all the competent authorities have tried a lot for this, for not allowing it to escape. That is why I kept shouting during the last months: don't sleep with foreign illegal prostitutes (Loverdos quoted in Karlatira 2012, my translation).*

After every sweep, the photographs of the newly arrested women would be displayed in the media in an atmosphere of "terror" along with hotline numbers available for the "Greek family men" who were the imaginary collective victim of the crime for which the women were being persecuted.[159] The media lead an

[158] Of course, the entire procedure of non-confidentiality or the performance of medical acts in police stations goes against all relative protocols (Georgiou in Mavroudi 2013).

[159] Thousands of calls flooded the lines from worried customers that had paid a little extra (for example 10 instead of 5 euros) for unprotected sex with the women they recognised on the media while it was clear that "the health of these women themselves was of no concern at any point" (Gkresta & Mireanu 2016).

extreme ethico-hygienic panic campaign using the mugshots of the women, which found themselves at the centre of an emblematic moment of biopolitical regulation through a race- and gender-informed nosology (Athanasiou 2012).[160]

In reality, none of the seropositive women arrested in the whole series of operations was of African origin but most of them were, in fact, Greek users of intravenous illegal substances (Mavroudi 2013). Filippidis (2018) notes:

> *However, behind these imaginative spatial-ideological constructions of Loverdos we have to discern the facts and stand on two critical points. Firstly, on the fact that if something should undoubtedly concern us about its horrific extent that is none other than the promotion of sexism as the basic condition of public discourse and, after all, of politics itself. Secondly, on the very turn of the operation in question that would categorically contradict the minister, proving that his statements were not characterised by any prophetic quality; to the contrary, they were meticulously constructing a field of police-political intervention, attempting to pathologise a priori the presence of migrants in Greece (Filippidis 2018: 85).*

Indeed, the racist and anti-migrant elements of this debate were not in any way relented by the fact that the hypothesis of the Minister about migrant seropositive sex-workers was actually disproved by the outcome of the operation. On the contrary, the entire operation was considered a success, leading to the re-election

[160] Most of the women remained in prison for several months although none of their alleged clients had come forward to press charges. All the women suffered great consequences in mental and physical health as well as a complete annihilation of their social status (and their families) in public and especially in their places of origin (Mavroudi 2013). The authorities maintained that they acted according to the law and did not violate any person's rights, thus, discontinuing the complaint filed on behalf of some of the persecuted women. By 2016, all of them were pronounced innocent in court.
Unfortunately, four of the women were not alive to witness the trial (Vovou 2016). Two of the women, Maria and Katerina, committed suicide (Protovoulia Allileggyis Diokomenon Orothetikon Gynaikon 2013; Mpotsi 2014; Vovou 2014). Katerina's father had lost his job and had attempted suicide himself in the aftermath of the events. Katerina before her suicide had written in an announcement concerning their case "the damage that was done to us will follow us and our children forever" (quoted in Vovou 2014: online, page n/a, *my translation*).

of Nea Dimokratia and, specifically, of the politicians involved. Namely, this operation formed part of the Greek State's "continuous war on undocumented immigration" (Gkresta & Mireanu 2016: 228) in which "these particular women lent momentarily their face to the necessary, in view of the elections, internal enemy" (Psarra 2012b: online, page n/a). Indeed, the seropositive persecuted women became the metonymy of the infectious Other for the Greek state, media and society who were invested in their social death (Athanasiou 2012).

As mentioned earlier, the "triumph" of this operation on the communicational front assisted in the re-election of the politicians involved and, most importantly, of Nea Dimokratia who, relying on the social acceptance of its anti-migrant agenda, formed a new coalition government[161] and, only a couple of months later, launched one of the most massive operations of population control in modern Greek history. This pogrom-like operation, officially named *Xenios Zeus* (Hospitable Zeus), was initiated in August 2012 and amounted (among other things) to a series of police raids in public and private spaces (including houses) that radically changed Athens as a city.[162] During that period, Athens became an atrocity playground for the Hellenic Police, which, along with Golden Dawn battalions, indulged in a racist power trip that included racial profiling, physical violence, torture, disappearances, extortion,

[161] The governing coalition of Antonis Samaras was formed in 2012 after Nea Dimokratia could not secure the necessary majority to form a single-party government. With the collaboration of PASOK and the Democratic Left (*DIM.AR*) a coalition government was formed and stayed in power until 2015.

[162] The extent of the operation itself is difficult to conceive:

This is the materialisation of a meticulous and patient pogrom, one that gradually turned into a constitutive element of public space itself — and its conceptualisations. "Anyone who is identified, whether on foot or moving via any medium of transportation, will be detained in the detention centres, where they will be held temporarily, until their return to their country of origin," the Greek police spokesman would state characteristically. Until February 23, 2013, which was also the last time when the Greek police published the number of detentions as part of the operation in question, 84,792 migrants had been officially detained. The police announcements were no meretricious exaggeration. The "Xenios Zeus" operation continued in central parts of Athens for almost two years, having led to the arrest of 5, 611 migrants in total who "did not meet the legal criteria for their stay in the country" (Filippidis 2018: 86).

illegal detention and other similar practices (Human Rights Watch, July 2012; Human Rights Watch, June 2013).[163]

Although the operation was mainly targeted towards migrant populations, the normalisation of this control regime, as shown by the persecution of the seropositive women, was largely invested in "(re)constructing national identity and national integrity" against and through all Others in racial, gender, sexual, religious and other terms (Filippidis 2018: 79; Athanasiou 2012). In this sense, the concept of the *enemy within* was broadened in order to "include all vulnerable social groups (migrant men/women, homeless men/women, drug users, trans people, male prostitutes, female prostitutes), as it [was] exemplified by the mass arrests taking place on an almost daily basis" (Protovoulia Allileggyis Diokomenon Orothetikon Gynaikon 2012: online, page n/a, my translation). In this context, during operation Xenios Zeus in the summer of 2012, several trans women were also detained and forcefully tested for HIV in a gender-normative conceptual framework of moral-hygienic abjection (GTSA 2012). As none of them was found seropositive, they were released and did not suffer the public humiliation reserved for the seropositive women.

With this legacy and within a similar context of urban cleansing, in May of 2013, more trans women were targeted and detained on different occasions in the city of Thessaloniki (GTSA 2013a, 2013b; Galanou 2013). As made clear by the reply of the Minister of Citizen Protection, Nikos Dendias, to three relative parliamentary questions (Parliamentary questions no 11381/4.6.2013, 11551/6.6.2013 & 11530/6.6.2013), the targeting of these women was part of a police "Special Operational Action Plan" of the public authorities (Document No 7017/4/16499). This plan aimed to "improve the image" of some areas of the city and "tackle, among others, prostitution and exploitation of the sexual life of socially and economically vulnerable individuals, to enhance citizens' feeling of safety and to

[163] Additionally, for police violence in Greece see the Amnesty International report "Police Violence in Greece: Not Just 'Isolated Incidents'" (Eur 25/005/2012) and the article "The Killing of Zak: The Astonishing Violence and Impunity of Greek Police" (Alevizopoulou & Zenakos 2018).

improve the image of the above mentioned areas" (Dendias quoted in TGEU 12.07.2013).

This statement, which was repeatedly protested by various political agents, confirmed the proposition that these women were "persecuted and prosecuted by governmental authorities on the basis of their gender identity", which was implicitly considered proof of illegal sex-work and, thus, indirectly criminalised (Bouklis 2013: online). As one of the detained women explains in an interview with queer-feminist group *Mov Kafeneio*, referring to the reply of the Minister:

> *K: (…) Through the statement they published it became clear that they think of us as trash. That is, when they say they want to clean up and upgrade the area, it means they see us as trash. Clearly all this starts from high up and not some officer on duty. Who is it that forbids me to be in a specific part of the city, or in my car? And who might that be, who can stop me, even in motion, in my car or while waiting at a gas station and halt me and detain me without even explaining why? (Mov Kafeneio 2014: 9, my translation).*

The hunting down of trans women in Thessaloniki continued throughout the summer of 2013 with police harassment and hours-long detention becoming a daily routine for many trans women, some of which were repeatedly picked-up and mistreated. With the support of the GTSA and after the reaction of several political collectivities, NGOs and other actors, some of the women decided to file a group lawsuit for their targeting and mistreatment (GTSA 2015a). A separate but correlated lawsuit, regarding her own mistreatment, was filed by the lawyer who represented them, who, during one of the arbitrary detentions, was repeatedly denied contact with her client and was finally illegally held as well (GTSA 2017a). In 2015, both lawsuits were discontinued as, after conducting a Sworn Administrative Inquiry, the public prosecutor of Thessaloniki considered the entire procedure *lege*

artis (GTSA 2015a).[164] What is clear is that whether in the case of the seropositive or trans women or the case of undocumented migrants, the construction of Other bodies as infectious and, thus, dangerous for the national body legitimised (and was legitimised by) state practices that were informed and relied upon discourses of racist, sexist and heteronormative dominance.

Utilising the insightful analyses of Greek feminist authors, one can draw lines from the intensification of gendered and racialised hierarchies to discourses of crisis and the materialisation of state projects of crisis management and austerity politics. Not so much, as Carastathis notes, as a causal relationship within which Greece became racist and phallocentric *due to* the crisis but as a way to secure the politics of austerity through the affective economies of race and gender hierarchy (Carastathis 2015). In this vein, Athena Athanasiou (2012) analysed the neoliberal crisis management, or more accurately the crisis as neoliberal management, by tracing the connection of moral and affective economies with biopolitical regulation. Athanasiou (2012) used Lauren Berlant's concept of "national sentimentality" to frame a series of identification-strategies within the national narrative of crisis, such as the folding back into politics of national intimacy and the warm patriotic embrace of the Greek family. Austerity enforcement as well as anti-migrant politics and other marginalisation practices have been embedded with an overwhelming sentimentality within the political discourse that not only nurtures the 'love for our own' (by national, financial and gendered criteria) but also facilitates a return to familial and traditional gender values (Athanasiou 2012: 25).

Closing this section, it has hopefully been established that the anti-racist legislation, which is examined in the next sections, was introduced by and within an institutional order wherein nosological discourses, state racism and gender abjection were crucial instruments of governance. That is, not only for the

[164] Last, in addition to all the above, the Thessaloniki Court of First Instance, on the grounds of the archiving of the case, partly accepted damage claims of 5,000.00 euros plus court expenses in favour of the policeman who locked the lawyer in the cell (GTSA 2017a). Following this turn of events, one of the women along with the lawyer that was arbitrarily detained appealed to the European Court of Human Rights where their case in pending (Koutra & Katzaki v. Greece, Application 459/16).

ideological re-legitimation of national(ist) values and state sovereignty but also for managing populations and distributing socio-fiscal precarity (Athanasiou 2012: 31). In other words, this section goes to show precisely which government and in which historical moment graced (even unenthusiastically) vulnerable groups with legal protection against racist crimes and why that raises various questions. The next section traces how the anti-racism legislation reform came about, hinting towards a rather confounding relationship between the principles embedded in this legislation and the political forces that utilised it.

8.3. Racist Crime

It was within the above-described turbulent era of violence, precarity and dispossession but also intense socio-political mobilisation that a reform of the Greek anti-racist legislation was initiated. In 2011 and with anti-migrant violence on the rise, the Racist Violence Recording Network (RVRN) was founded as an initiative of the National Commission for Human Rights and the UNHCR-Greece with the participation of various NGOs and other institutions. By 2012, the mainly right wing governing coalition was faced with international pressures concerning the rise of Golden Dawn and the unprecedented surge of violence that was bringing negative attention from international press and European institutions.[165]

In response, the government attempted to strengthen the legal framework concerning the criminal prosecution of racist violence. Specifically, Law 4139/2013 (GG A 74/20.03.2013) amended article 79 of the Criminal Code according to which the commission of crimes motivated by hate towards specific characteristics constituted aggravating circumstances and, under the amended provision, the threatened penalties could not be suspended (Fountedaki 2014). In this context, the term "gender identity" (*ταυτότητα φύλου*), as such, was introduced for the first time in the Greek legal order as a protected characteristic under this law.

[165] See for example the 2012 BBC article "Greece Wrestles with Rise in Hate Crime" (Shevchenko & Athanasoulia 2012), the 2012 New York Times article "Greece's Epidemic of Racist Attacks" (Cosse 2012) and the 99-page report of Human Rights Watch "Hate on the Streets: Xenophobic Violence in Greece" (HRW 2012).

Nonetheless, the undisrupted increase in violent attacks (including stabbings, arsons etc.) towards marginalised groups amplified the international outcry for the lack of prosecution of racist crimes and, especially, of the activities of Golden Dawn. In January 2013, the murder of Shehzad Luqman, who was randomly targeted on the street by supporters of the Golden Dawn due to his migrant origin, brought some publicity to the reality of unresolved and unprosecuted murders of migrants in Athens during that period. Following the murder of Luqman and its aftermath, the Department to Combat Racist Violence was activated within the Hellenic Police as well as a hotline for complaints. Only a few months later, a fascist attack leading to the murder of anti-fascist rapper Pavlos Fyssas by a Golden Dawn supporter shook public opinion once more. The murder, nonetheless, of a Greek citizen resonated differently with social and political actors compared to years of anti-migrant violence, mobilising intense protests on a national and international level, as well as instigating the persecution of Golden Dawn and the arrest of its MPs for organised criminal activity (Carastathis 2015).

Even after the initiation of the monumental judicial process against Golden Dawn in 2013, the further strengthening of the legal framework against racist crime remained a strongly articulated demand of international actors as well as the national left wing powers.[166] Therefore, the government was forced to renegotiate the introduction of the widely known "anti-racist bill" that had already been postponed in the past. In complete contrast to the silence and oblivion that characterised the introduction of employment anti-discrimination legislation described in chapter seven, the public debate concerning the anti-racist legislation became a battlefield. The political crisis woven around the "anti-racist bill" was so severe that its introduction to the Parliament for voting was postponed several times and the entire procedure lasted overall more than two years (Meliggonis 2013; Kitsantonis 2013; Sotiropoulos 2014).

[166] See for example the 2013 Guardian article "Greek Coalition in Crisis Talks over Anti-Racism Bill" (Smith 2013), the 2013 Economist article "The Greek Far Right. Racist Dilemmas: Greece Needs a More Robust Anti-Racism Law" (The Economist 2013) and the 2013 report of the Commissioner for Human Rights of the Council of Europe Nils Muižnieks Following his visit to Greece from 28 January to 1 February 2013 [CommDH(2013)6].

Other than the overall anti-migrant stance of several political powers, two of the main points of conflict around which the political opposition to the bill was framed were the perceived intention to supposedly protect homosexuality and the criminalisation of the denial of the Holocaust, war crimes and genocide.[167] The public debate concerning the "anti-racist bill" was largely formed around the resistance on the part of Golden Dawn and several conservative powers (Zoulas 2014). Racist, homophobic and anti-Semitic discourses flooded the public debate over the suggested legislation, adding to the systematic and systemic violence of this period.[168] Finally, the bill passed after intensifying political pressure in the aftermath of a government scandal including government and Golden Dawn members.[169]

The resulting law, Law 4285/2014 (GG A 191/10.9.2014), was voted for in adaptation of the decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, and replaced article 79 of the Criminal Code with article 81A. The revised provision rendered more severe minimum penalties for what are characterised as "racist crimes" while maintaining gender identity among the protected grounds.[170] Moreover, article 1 of the same law criminalised the incitement to discrimination, hatred or violence (but not hate speech *per se*)[171], an issue that has given rise to

[167] Specifically as to whether the historical crimes that have been recognised by the Greek Parliament as genocides (such the systematic killing and exile of Christian populations by the Ottoman Empire) would be considered as recognised genocides and, thus, protected under the law.

[168] For such institutional "hate-speech" during this period see ECRI report on Greece (fifth monitoring cycle). Adopted on 10 December 2014. Published on 24 February 2015, pp 17-22.

[169] The "Baltakos scandal," which consisted in the public disclosure of secret communications concerning the Golden Dawn prosecution between the General Secretary of the Government Panayiotis Baltakos, who was forced to step down, and leading Golden Dawn member Ilias Kasidiaris. For details and transcript of the published video, see the Eleutherotypia article "Samaras Close Aide Resigns over Golden Dawn Contacts" (Mac Con Uladh 2014).

[170] Law 4356/2015 amended this article using the term "crime with racist characteristics" and replacing the subjective ground of hate with the choice of the victim according to certain characteristics. Recently the threatened penalties for such crimes were somewhat lowered by Law 4619/2019.

[171] See the 2014 Guardian article "Greek Laws 'Fall Short' as Racist and Homophobic Violence Surges" (Smith 2014).

debates concerning free speech. It should be noted that Law 4285/2014 foresees the liability of legal persons or groups of persons, thus, providing legal protection from unities such as political parties (article 5) as well as threatening harsher penalties in cases of such crimes committed by public officials or employees (article 1). That was considered important to the extent that the public comments that fall under the purview of this provision were often made on the part of politicians and clerics (ECRI 2015).

As it becomes obvious, the legislation against racist crimes (with sexual orientation and gender identity among the protected characteristics) was introduced into the Greek legal order under vastly different circumstances compared to the employment antidiscrimination legislation discussed in the previous chapter. The anti-racist legislation touched upon the very heart of the on-going political conflicts within Greek society and was placed on centre stage of the national political agenda from the offset of its negotiation. In the next section, I turn to a critical interrogation of the effects of anti-racist legislation on trans realities led by my interlocutors' engagement with its imperatives.

8.4. Violence and All "the Rest of it"

In this section of the chapter, the legal framework against racist crimes is analysed along the points that were raised by my interlocutors during our discussions. Their appraisal and understanding of this legal framework point towards a complex and ambivalent engagement with its rationale. I will suggest that there are two intertwining paradoxical conditions which account for much of this ambivalence. The first one is the concept of relying for protection (from individual perpetrators) on institutions that are central in the legitimisation of gendered, racialised and other violence. The second condition that intensifies the aporetic engagement with anti-racist legislation is the experience of violence as simultaneously eruptive *and* continuous (or exceptional *and* normalised) and the inability of this legal framework to grasp the latter.

Discussing with Valeria and after she had explained that she would not consider seeking legal protection for discrimination in employment, I rephrased the question towards seeking legal protection in instances of violence or verbal harassment.

> *Me: Would you bother then with such a process?*
>
> *Valeria: Yes, I would, but bear in mind that all of this has some costs. That is, imagine I go to a public service and someone says the worst about me like, "get out you tranny" let's say. First thing, you would need to have witnesses because it is your word against a public employee. I mean I'm trans and a foreigner and he is a public employee, right? Which counts! And Greek! Well there you go. You need witnesses, you need a lawyer and to pay 100 euros to press charges […] it's this and that and the whole thing I described together. […]*
>
> *Me: So…would you actually be into such a thing?*
>
> *Valeria: I would totally be into it! I would be into it totally, because sometimes this whole thing chokes you but it is your word against someone else and maybe they will say you made it up or I don't know what. You need to have proof, money and the mental disposition to push this and definitely to have money. […] It's not easy. [Interview with Valeria in 2017].*

It is worth noting that the "100 euros" mentioned here is a fee that was traditionally (it has recently been lowered) charged for pressing charges in criminal court, and, thus, initially for reporting a racist crime too. In 2016, this fee was waived for some categories of crimes such as domestic abuse and racist crimes (Law 4446/2016 art. 40).[172] The fact that Valeria was not aware of this change in law is not noteworthy as she is not a legal professional nor had she had any relative

[172] Nonetheless, as the Racist Crime Watch (an initiative of the Greek Helsinki Monitor) notes, it is a standard practice for the Hellenic Police -ignorant and hostile as to the whole procedure of reporting racist crimes- to demand this fee to file such complaints (Tsarnas 2017b; Tsarnas 2018; Dimitras 2019). In fact, ignorance and mistreatment on part of police and judicial employees came up repeatedly in my discussions with both trans individuals and legal professionals. Overall, the issue of mistrust towards state institutions is a stable factor in underreporting that has been documented repeatedly and will not be further analysed here (RVRN 2013, 2014, 2015).

experience. Although the fee she mentions does no longer apply and although racist motive theoretically is not impossible to prove, I suggest that what she described touches upon complex qualities of legal reality. It has little to do with the "100 euros" or her misinformation of the legal process and more with her intimate knowledge of how "economies of hostility" work on an everyday level (Carastathis 2015; 2018b).

The picture she paints hints towards the intertwining of transphobia, (trans)misogyny, racism and perceived respectability - an intertwining that can be easily fathomed within the socio-political terrain described earlier in the chapter. In this schema, the *victims* not only need to be recognised as protection-worthy (rights-bearing, legally legible and law-abiding citizens) but also as socially respectable, as "proper" Greek citizens. Valeria herself, at the time of our discussion and due to the complication of her trans and migrant status, lacked not only the perceived respectability of a proper citizen ("I'm trans and a foreigner") but also the primary identification documents from Greece or her birth-country that would allow her to navigate any legal process. Even in its impossibility, this legal scenario is imagined in Valeria's excerpt as a revenge or redemption fantasy towards that which "chokes you." However, before the sentence is finished, it is already cancelled once more ("it is your word against someone else and maybe they will say you made it up or I don't know what").

Staying with the ambivalence and conflicting feelings for what this law represents and how it functions, I want to look closely (hence the long excerpt) into our discussions with another of my interlocutors. At the time of my first interview with Lola in 2014, the anti-racist legislation had just been voted in and our discussion was situated within the aftermath of the public debate about it.

> *Me: So with what you were saying just now about the lack of protection, I am thinking that there is some recent legislation…*
>
> *Lola: You're talking the anti-racist bill?*

Me: Yes. And in combination with what you said about what would happen socially if the law recognised our existence from the beginning. I mean, I guess this law is too recent but to what extent do you think that it will mean socially and substantially that you are legally protected?

Lola: Look, first of all this law is in my opinion completely superficial and completely perfunctory and not at all substantial and also the reasons that it was made and it was voted were not political in the sense…it is superficial. Nonetheless, there is the argument that, I don't know…that there is the fear on the other side that from now on against such discrimination I can mobilise in a specific manner and not abstractly. That if you insult my gender identity you won't be on trial as if you called me a "moron" on the street but you will be on trial under a specific framework, which I really don't know how it can actually function… I mean it's very…I really don't know if this fear will mean something but the fact that there is this crumb, that this small, small something happened…on the other hand who has the money for that? […]

Me: In my experience, less-privileged people are often in positions that in theory are not legally acceptable or let's say shouldn't be allowed by the law, like, you know, migrants getting beaten up in police departments, maybe in this sense a legal framework could be a kind of asset, no?

Lola: It's a potential tool and you can't expect in the society we live in, from one day to the next, just because an itty bitty anti-racist law (αντιρατσιστικούλι) was voted for, that the mentality of the average cop will change or the average driver or the average boss and so on. This is impossible and we can't believe, even with this tool, that this can happen. It is impossible. […] Nonetheless, if we can manage to put it to use, even in its formality, I believe that with time it will pass. Well…it won't pass to the degree that the cop won't be transphobic, alright? It won't pass to the extent that my boss won't fire me or I won't be hassled or ridiculed on the

street because this law exists but maybe with time somehow…I don't know maybe the publicity of such cases will help. […] At least for those who can afford to pursue this. Because if it happened to me, I wouldn't be able to afford the lawsuit or the lawyer. And to be honest I don't know if I would like to be in a courtroom that people will be talking to me in male form and be like "Mr so-and-so you are complaining that Mr so-and-so beat you up after you had sex" for example. Ok now, I think we both know what I'm talking about, no?

Me: Yes. Still, why do you say that this law is "superficial"?

Lola: Because it does not secure life in better terms. It is supposed to protect after the attack. Hence, it is superficial. […] and you'll say could there be a law under the present circumstances that would prevent an attack? I guess there couldn't be, what do I know? However, if this whole chain was right from the beginning up to…that is, I feel that this is the final part of how things should be and not their substance. That's it. […] So yes, it's a jewellery-law [ένας νόμος-κόσμημα] let's say, a law like an earring [ένας νόμος-σκουλαρίκι], it's not for any of the minorities it is supposed to include and protect

Me: So the fact that they decided, in this moment, to protect…the individuals that are…quote unquote….

Lola: …<u>victims</u>! To protect them after they made them into victims! ((We both laugh)).

Me: Precisely. To protect trans people in this way although they haven't actually…

Lola: …recognised their existence! ((She laughs))

Me: Yes, I mean…

> *Lola: Well, obviously, there was a lot of pressure, right? Obviously, there was pressure to include sexuality and gender identity in the thing. […] And so it's not… maybe it's a tool in cases of serious physical injury etc. […] For the rest of it, it's not. For not being able to rent a house or being fired or not being hired or being forced to quit school…it's not. [Interview with Lola in 2014]*

During our entire conversation, Lola kept going back and forth in describing legal protection, on one hand, as necessary and potentially effective in altering (even if slightly) social conditions ("a tool" or in another case "a window") and, one the other hand, as useless or even decorative ("jewellery" or "an earring"). This ambivalence is related to the empirically well-grounded suspicion against state institutions and the sudden "inexplicable" eagerness of the legislator (and even more so a right wing government) to go out on a limb in order to protect groups of people that are, at the same time, systematically marginalised by it.

In contrast with employment anti-discrimination laws, the anti-racist legislation was picked up by LGBTI+ lobbying groups in an attempt to produce litigation concerning high publicity cases of homophobic and transphobic speech. To that end, various activists and NGOs attempted to use anti-racist provisions to mobilise judicially against state and para-state actors mainly on the grounds of public incitement of hatred and violence (Greek Helsinki Monitor, Athens Pride and Thessaloniki Pride 2017). Moreover, the introduction of structures for reporting racist crime lead to a small number of individual complaints for violent attacks and other similar incidents (RVRN 2013, 2014).[173] Not surprisingly, the outcome was usually disappointing as

[173] Soon after the establishment of the Racist Violence Monitor Network, LGBT groups with legal status joined it in an attempt to produce, for the first time, official recordings of homophobic and transphobic violence. Moreover, in lack of official reporting protocols, the NGO Colour Youth – Athens LGBTQ Youth Community launched in 2014 the programme "Tell Us" (*Pes to s' emas/Πες το σ' εμάς*), which aims to record incidents of violence and/or discrimination based on gender identity gender expression and/or sexual orientation and provide professional and educational services (Theofilopoulos 2015b). "Tell us" was initially funded by the EEC Grants' NGO programme "We are all citizens" through the Bodossaki Foundation (a major privately owned public-benefit organisation) who was the fund operator in Greece. Since 2015, the programme operates under the funding of Open Society Foundations (OSF). This is also exemplary of the fiscal routes that enabled this new kind of LGBT lobbying.

the institutions that were assigned to respond to requests for protection against racist violence are themselves, as seen in section 8.2, heavily invested in ethno-sexual hierarchies.

Indeed, in 2017, a joint submission was made to the prosecutor of the highest Greek court (*Areios Pagos*) by the Greek Helsinki Monitor (GHM), the Athens Pride and the Thessaloniki Pride arguing a systematic lack of prosecution of homophobic crimes regardless of the existing legislation (Dimitras 2017).[174] In the same year, a submission to the European Commission against Racism and Intolerance (ECRI) by the GHM, the Minority Rights Group - Greece (MRG-G) and the Coordinated Organisations and Communities for Roma Human Rights in Greece (SOKADRE) made similar arguments for the non-application of the anti-racist legislation regarding various affected groups (Tsarnas 2017a). Both documents include incidents wherein Orthodox Church representatives, politicians, the Hellenic Police and prosecuting authorities and other institutions (civil courts among them) have exercised behaviour that is blatantly in violation of the anti-racist legislation. Nonetheless, most of these cases either failed to be prosecuted or their prosecution was discontinued by the authorities ("archived"), or they were dismissed in court, thus intensifying the feeling of pointlessness expressed when discussing the effect of anti-racist legislation.

What is epitomised by the cases included in these documents is something that can be considered common knowledge, especially within marginalised groups in Greece. That is, that state and para-state actors have a central role in establishing and perpetuating racialised and gendered violence and hostility within Greek society. A fact that is turned on its head by the logic of the anti-racist legislation, which relies on state-institutions for countering the violence they exemplify. In this vein, critical approaches to hate crime legislation have pointed out that the

[174] The joint document also provides a distinction between secular officials, on one hand, which (even if rarely) might be prosecuted for their public racist statements and religious officials, on the other hand, which systematically cultivate anti-homosexual, anti-trans, anti-migrant and anti-Semitic sentiment without legal consequences until then although numerous complaints had been filed against them (Dimitras 2017).

investment in punitive mechanisms and the focus solely on interpersonal harm does not work towards undoing social injustices and challenging the broader socio-political conditions that encourage and enable the violence covered by this legislation (Spade [2009] 2015]; Lamble 2013; Boukli & Renz 2018). Anna Carastathis in discussion with Greek LGBTQ activists notes:

> *Therefore, as we examine more closely in what follows, according to my interlocutors, homophobic and transphobic violence should not be considered only interpersonal but mainly social and institutional.*
>
> *It appears within the educational system and other state institutions, which my interlocutors describe as inimical and even hostile to LGBTQ people. Indeed, this institutional and institutionalized hostility legitimates and even encourages violent attacks occurring in streets, squares, and shops by citizens, fascist assault battalions, and also by police and military officers (Carastathis 2018b: 272).*

Furthermore, focusing on interpersonal violence and appointing blame for gender related violence onto "bad" individuals that, in turn, are punished by neutral state-mechanisms, works to obscure their own the role in the perpetuation of this very violence. Wendy Brown's analysis on rights, which was visited in chapter three, echoes here to the extent that she has insightfully traced the processes of de-politicisation and individualisation that allow (neo)liberal states to appear as defenders of injured individuals against social injustices, which nonetheless are a *sine qua non* for the very existence and flourishing of these states (Brown 1995). Lola's analysis in the discussed excerpt converses with such accounts to the degree that she describes the "racist" punishable behaviour as the last part of a "whole chain" that establishes the legitimacy of this violence. To that end, the institutions, which are largely responsible for the entire chain, intervene right at the end of it, establishing themselves as rightful protectors but not actually, as she noted, "securing life in better terms."

The inability of such legislation to secure life in better terms has been noted by feminist critiques along with the inaccessibility of many of these legal remedies to the most vulnerable populations (Kahlina 2015). Although these critiques are salient, there is undeniably *something* produced, even if only on a symbolic level, by having an identity pronounced by the legislator and protected, even if only on a theoretical level, by the law. The very recent memory of homophobic (let alone transphobic) violence not existing as a legally intelligible concept in Greece speaks volumes to the effects of complete legal and official illegitimacy (Boukli 2009). Indeed as we read in the excerpt, Lola allows herself to engage with the law's *politics of hope*, as Beger describes it, and to entertain the promise of the law to "teach the nation respect, forcing them to acknowledge and protect individual expression" (Beger [2009] 2013: 113). This engagement, nonetheless, is momentary and self-refuting. It persists on valuing the law and undermining it at the same time. As with Valeria, what is important here is not to read this ambivalence as an expression of personal indecisiveness but as an accurate understanding of the paradoxical nature, not only of rights in general, but also more specifically of the accelerating improvement of the formal status of minorities in a (neo)liberal reality of normalised violence, precarity and injustice (Papanikolaou 2018c).

What is more, I suggest that both accounts create a link with another condition that generates ambivalence towards legal protection against "racist" (in the Greek all-encompassing use of the term) violence – a condition directly related to the limitations imposed by the conceptualisation of this violence in such a legal framework. To get a feel for this we need to ask insistently: when Lola posits that, although this law might be a tool in case of an attack, it does not really protect trans individuals from "the rest of it," what exactly is she referring to? And how can "the rest of it," which is not an incident such as an attack, be understood as so significant that it amounts to the appraisal of the law as superficial? She gives some examples but none of them on its own seems to capture the weight of what she describes, and which might be suggested to be the overall *atmosphere* around a trans woman in Greece. As most of Lola's and other of my interlocutors' lives take

form within this atmosphere, within all "the rest of it," it is necessary to take a moment and make more of an effort to compute this as a crucial parameter in this debate.

Sara Ahmed (2012) in her work on racism in institutional life engages with the "labor in attending to what recedes from view" (Ahmed 2012: 14) and, in that sense, makes visible what is ever-present for some but unacknowledged by others; ever-present for some also *because* it is unacknowledged by others. Ahmed (2014) describes whiteness as a kind of surrounding, something that is just around, but also, following Frantz Fanon, she conceptualises racism as "an atmosphere around a black body" (Ahmed 2014 online). "An atmosphere," Ahmed tells us, "can be how a body is stopped, how some are barred from entry or stopped from staying" and in that sense is a strategy of socially (and institutionally) imposing who is unwanted, not necessarily by declaring so, but nonetheless by making inhibiting a space unbearable (Ahmed 2014 online). Ahmed's analysis is not employed to achieve a race-gender analogy but to offer a way of understanding the qualities that compose an *a priori* non-hospitable (or even unbearable) environment for some and, thus, can "explain" much of the reluctance of my interlocutors towards legal action as a means of substantially improving their daily interaction with the world. Her methodological grace in describing *what recedes from view* allows (at least an attempt) to recognise the atmospheric quality of what Lola calls "the rest of it" or what Valeria refers to by "this and that and the whole thing."

Understanding transphobia and gender violence as a kind of surrounding provides a framework within which ambivalence towards a narrower conceptualisation of these concepts should not just be expected but also welcomed. Regarding violence in specific, Anna Carastathis (2018), drawing from Black feminist and transfeminist theories, establishes an understanding of homo/transphobic violence in modern Greece as atmospheric. Although Carastathis makes this point with broader epistemological - and not specifically legal - convictions in mind, her analysis enables a deeper reading of the law's (in)ability to grasp the atmosphericity of transphobic violence. According to Carastathis, the dominant model of engagement

with gender-related violence is based on a perception of violence as constituted by events or incidents with clear spatio-temporal limits that allow us to map out the experience of violence by describing, charting and condemning such events (Carastathis 2018a).

This way, violence is reduced to the exceptionality of the event which constitutes a "dysfunctional exception" that disrupts a smooth and non-violent normality (Carastathis 2018a: 6). This conceptualisation, even when it implies or recognises the ever-presence of violence, it does so in quantitative terms that suggest this ever-presence is the sum of increasing numbers of such incidents. Nonetheless, as Carastathis notes, the difference between understanding violence as incidental or atmospheric is more than a matter of proportions. The difference of the two approaches is that "the dominant, incidental approach treats gendered violence in epidemiological terms as outbursts of a disease, within a social body that is, besides that, healthy" (Carastathis 2018a: 9, *my translation*).

Indeed, the legal concept of racist crime can target only the incident, the rupture, the outburst of (transphobic) violence, obscuring its coherency, its atmosphericity and, thus, establishing normality as non-violent/racist/transphobic.

> *Paradoxically, the silencing of queer sexualities and gender identities constructed as transgressive by an aggressively heteronormative society becomes audible in the aftermath of "spectacular" outbreaks of violence - but also in and through political resistance to such violence - the condition of possibility of which is the banalized, institutionalized atmospheric violence that structures everyday life for LGBTQ people (Carastathis 2018b: 287)*

On the contrary, perceiving transphobic violence as atmospheric accounts for experiencing violence as simultaneously "surprisingly explosive" and "suffocatingly banal" (or "so mundane", to remember Nataly's understanding of transphobia mentioned in the previous chapter) (Carastathis 2018a: 7).

The banalised character of transphobia and its dissemination throughout the social fabric renders it self-evident to such a degree that, in some of the interviews, my interlocutors would reply that they do not encounter problems in the streets and a few minutes later proceed to describe casually several motifs of aggressiveness or hostility that they are (or have been) faced with. I use the words "aggressiveness" and "hostility," as it might be useful to utilise other concepts that go beyond "hate" and "violence" in order to unearth what is obscured by focusing on the incidental and by silencing the atmospheric. In an article about austerity and racialised gendered violence in crises, Carastathis uses the concept of "hostility" to describe an affective economy organised not necessarily only by hate and physical violence but also by "more mundane affects" (Carastathis 2015: 109). For trans people, and especially those among them that do not pass, this economy of hostility is not only misunderstood but also re-legitimised by obscuring "more mundane" affects and their catholic presence. In other words, my argument here is that continuous conditions of tension, hostility, public scrutiny, hyper-sexualisation (for trans women), precarity and illegibility can be read as "the rest" that Lola refers to or "this and that and the whole thing together" that Valeria tries to explain. This is the normality that is understood as non-violent through the given legal framework and, thus, is legitimised as such and disconnected from incidents of violence that are not recognised as integral but rather as exceptional in this normality.

In this section, I have explored the paradoxical effects of anti-racist legislation on a molecular level through an analytic lens enabled by the experience of transphobia as discussed with my interlocutors. I have suggested two conditions (focusing on the individual while obscuring the structural/institutional, understanding gender violence as incidental/exceptional instead of atmospheric/normalised) as crucial in accounting for my interlocutors' ambivalent engagement and aporetic disposition towards anti-racist legislation. The symbolic and practical potential of the law competed, within my interlocutors' narratives, with a sense of futility in the face of the catholic character of transphobic (institutional) violence. Additionally, turning to state authorities for protection was depicted as pointless, not just because "the

police does not give a damn" [Interview with Sandra in 2017] but also because it is public authorities themselves that have, historically and in the current moment, orchestrated violent operations targeting the intersections of marginalised gender identities.

Following this, here legitimate questions are raised regarding the conditions under which a right-wing government that institutionally embraced and relied upon racist hostility and violence introduced this legislation. And, more importantly, questions regarding the political work performed by this introduction on a higher political level are raised. The next section attempts to tackle those questions in the same rationale as the previous chapter interrogated the role of employment anti-discrimination legislation in the state political agenda.

8.5. "Racism is an Enemy of All of Us"[175]

As noted earlier, in contrast with employment anti-discrimination legislation, anti-racist legislation has been repeatedly evoked in court on various grounds. The judicial resistance it was faced with, combined with the political imperatives of social and institutional racism described in previous sections, pose once again the same question: since obviously the protection of marginalised populations was not a priority, what was enabled in that context through the introduction of this legislation? If the employment anti-discrimination legislation was introduced within a certain political indifference in order to achieve Europeanisation goals, how can we account for the aporia concerning the introduction anti-racist legislation? That is, what were the stakes involved in introducing such a legislation for a government, which dealt so much pain and violence across the axis of ethno-sexual belonging and whose own members openly opposed the antiracist bill on several occasions, thus, repeatedly blocking its voting (Meliggonis 2013; Sotiropoulos 2014). This section briefly engages with these questions, pointing towards a critical reading of the anti-racist legislation as a means to rename the intensifying Greek (and

[175] (Comment of the Government of Greece on CommDH(2013)6: 2)

European) state racism and institutional violence through an instrumentalisation of the concept and rhetorics of racist crime.

Just a glance at the media articles and reports that have been cited throughout this chapter renders clear that the discussion concerning racist crimes and their penal handling was openly centred, on both a national and international level, around Golden Dawn's politics and their social impact. In 2013, the Greek government replied to the report of the Commissioner for Human Rights of the Council of Europe, which sketched out a grim image of raging street-level racist violence, as well as institutional racist violence - especially within the aforementioned anti-migrant operations such as Xenios Dias (CommDH[2013]6). The government explained in reply:

> *The Prime Minister and the Minister of Citizen Protection have never expressed views implying a racist or xenophobic attitude to migrants. Such an attitude is foreign to their political culture and, in general, to the Government's approach. At the same time, words or phrases taken out of their very context risk to produce false impressions, generate unfair criticism and blur the overall picture. The Prime Minister's statement about the "recuperation" of the city centers from illegal immigrants should simply be seen as an expression of the Government's firm will to effectively enforce the rule of law in the centre of the capital. This (…) will deprive any self-styled "protectors of the law" of the tools they use in order to impose their ugly theory and practices. (…) In a nutshell, racism is an enemy of all of us and we are all on the same page on this. Similarly, the use of the terms "invasion" or "bomb" by the Minister of Citizen Protection in referring to the huge presence of hundreds of thousands of illegal immigrants in the country should better be seen as only a dramatic depiction of the country's reality (Comment of the Government of Greece on CommDH(2013)6: 2).*

Through this re-naming practice, this spectacular exercise in inverting reality, everything that was described in the previous sections is understood as

ideologically neutral state-operations, which were aimed at providing rational solutions to practical issues. Although the racist violence of Golden Dawn has been enabled by decades long state racism (Emmanouilidis & Koukoutsaki 2013), after the anti-racist legislation reform and the criminal prosecution of Golden Dawn, this violence is presented as the opposite of state rationalism. Indeed, the government discursively framed the anti-racist legislation as a struggle against specific forms of violence that were defined *as* racist violence. And in doing so it reserved for itself the right to establish certain actions a*nd them alone* as racist and violent. That is, by conceptualising racist crime and racialised violence as either the purview of Golden Dawn's militia or an individual irrational behaviour, the Greek state re-conceptualises its own racist violence as non-racist and non-violent. Moreover, it achieves a legitimation of its extended punitive function, which is introduced as a necessity against the "zero tolerance common place" that Golden Dawn is supposed to be, but is ultimately also reserved for all socio-political actors that are (or will be) declared as illegal or dangerous (Koukoutsaki 2013).

Walter Benjamin's problematisation of legal violence echoes here as it calls us to consider the ways in which the law legitimises its own violence, thus, allowing its character as violent to recede from view (Benjamin [1920] 1979). Judith Butler notes that "in Benjamin's view, legal violence regularly renames its own violent character as justifiable coercion or legitimate force, but these terms sanitise the violence at issue" (Butler 2016: 40.48'). Using this tautological formula wherein legal violence is legitimised *because* it is legal, the Greek government "outlawed" Golden Dawn's racism and violence *as* racist crime while re-establishing its own practices of racialised and gendered violence as legal, thus legitimate, and, thus, non-racist and non-violent. Against the irrational racist violence of Golden Dawn, the Greek state re-names its own racist practices and violent operations as necessary and "justifiable coercion" in a state of emergency.

Under this prism, another take on the international aspects of this debate is also enabled. That is, the international articles and reports that have been cited throughout this chapter which epitomise the criticism of European institutions'

representatives towards the Greek state's inability to battle racist violence and institutional racism should be read within a similar schema of self-justificatory authority and re-naming function. The abundance of European institutions' articles and reports frowning upon the increase of hate-crime, racist violence and xenophobic rhetoric in Greece carefully side step the framework that dictated the strengthening of border militarisation, the creation of detention camps and the mass police operations in Greek cities. For example, the Commissioner stated in his aforementioned report:

> *The Commissioner urges the authorities to put an end to the practice of ethnic profiling by the police, reportedly widely used concerning Roma and as part of the "Xenios Zeus" police operation under which the legal status of migrants is verified. Racial profiling is discriminatory and seriously undermines confidence in the police among the social groups targeted. Drawing on ECRI's General Policy Recommendation N° 11 on combating racism and racial discrimination in policing, the authorities are invited to introduce in the law enforcement rules a "reasonable suspicion standard", whereby powers relating to control, surveillance or investigation activities can only be exercised on the basis of a suspicion that is founded on objective criteria (CommDH(2013)6: 28).*

In other words, the problem with the operation Xenios Zeus is that it was not executed correctly or that there are more correct and humane ways of recognising individuals on the street *as* foreigners, massively detaining populations, classifying them as legal or illegal (refugees or migrants) and deciding accordingly their detention/deportation/relocation, etc. The militarisation of European borders and the securitisation of cities as a political project, along with the xenophobic discourses that enabled it, recede from view here.

Nonetheless, as many commentators have pointed out in relation to this procedural sensitivity, it was the European Union who funded operation Xenios Zeus and it was a European political intervention which established the presence of FRONTEX on Greek borders (resulting in hundreds of deaths) and which progressively, through

the sealing of borders along the Balkan route, trapped thousands of people in slow death conditions on the Greek periphery and in detention camps (HRW 2011; Martin 2013; Carastathis 2015). Overall, as Carastathis notes, it is the EU "which funds the Greek state's immigration practices - enforcement, detention and deportation even as the European Court of Human Rights denounces them" (Carastasthis 2015: 78). That is not to say that the Hellenic Police and other institutional agents do not demonstrate unapologetic cruelty. Rather to clarify, that even without this aspect, these operations would still be founded upon racist imperatives and the forceful materialisation of the "fortress Europe" dogma that categorically deals racialised violence and death (Amnesty International 2014).

Nonetheless, although the current European political project is inextricably linked to racialised violence, at the same time, the investment in the depiction of Europe as defender and provider of human rights leads to the condemnation of the increasing racist violence in Greece. As hinted at earlier, the international political pressure was of crucial importance for the unwilling reform of anti-racist legislation by the Nea Dimokratia government. Throughout the public debate concerning this reform, which had already been attempted by previous governments, representatives of European institutions had repeatedly called on the Greek state to "do more" in order to combat racist violence within its territory.[176] Although similar pressures had produced political results during the previous period (within the dominance of the modernisation/Europeanisation debate), the basis of their influence differs in the era discussed.

That is, if, as suggested in the previous chapter, the conditionality of European funds was an initiative or a factor for policy reforms in the 1990s and 2000s, the post-memorandum era is characterised by an extent of conditionality that marks a paradigm-shift in European governance and state sovereignty.

[176] Such examples are the Human Rights Commissioner's Nils Muižnieks report on the situation in Greece (CommDH(2013)6), the Human Rights Watch submission to the United Nations Committee against Torture (HumanRightsWatch 2014) as well as the repeated visits by the European Home Affairs Commissioner Cecilia Malmstrom (Dabilis 2013; ekathimerini 2013).

> *Financial assistance to Eurozone countries facing severe financial difficulties gave the Union the opportunity to interfere, in sweeping and incisive ways, with the financial and macroeconomic policies of the recipient Member States. Common to all adjustment programmes was the use of strict conditionality: all loans awarded were made dependent on the recipient state's compliance with strictly monitored economic policy conditions. From the first bilateral assistance package to Greece, to the EFSF and EFSM, and finally to the ESM, a similar scheme was followed (Poulou 2014: 1147).*

Poulou makes the argument that financial support conditionality interfered so deeply in the national infrastructure that it can no longer be understood as solely economic governance. Rather, she suggests a conceptualisation of such deep intervention as a means of *European social governance*, which transcends a limited fiscal agreement with a sovereign state.

> *(…) the concept of European social governance is suggested to describe the newly introduced, indirect way the Union has found to dictate national social policy, portraying its intervention as a financial assistance prerequisite. In this governance pattern the social policy of Member States receiving financial assistance is not directly assigned to the competences of the Union, but is indirectly defined through the emergence of an extra-regulatory European institutional framework operating above national structures. Domestic arenas are treated as spaces to be regulated and supranational arenas as processes engaged in regulating. Decisions at the European level have such a profound and widespread impact on the national level of governance that domestic decisions on social policy matters cannot be assessed separately (Poulou 2014: 1150).*

At this historical moment in European politics and with feverish negotiations concerning Greece's financial support unfolding, we do not have to dig very deep to see why negative attention from European institutions could not be ignored by any government. To that end, the European Union's legal violence, which materialised

in Greece in both migrant population management and austerity politics enforcement, re-legitimised itself through the plight to combat hate-crime as the *true* form of racism and violence. In this vein, the reform of anti-racist legislation established on both national and European communicational fronts that European political powers and states strive against racism and xenophobia *while* racist and xenophobic political projects were being intensified. That, in turn, as explained above, provided the means for the Greek state's parallel process of re-legitimising its own legal violence along the axes of race, gender, national belonging and socio-economic status.

In this last section of the chapter, I teased out some threads that indicate the work performed by the legislation against racism within exemplary moments of Greek and European racist politics. I have suggested some points in this process that account for the seemingly inexplicable coincidence of formal legal protection and system(at)ic annihilation of the nation's Others. I have argued that, precisely through the investment in rhetorics against discrimination, racism and violence that are materialised in specific forms, an entire set of practices and imperatives were reconceptualised and legitimised as non-racist and non-violent. Continuing to explore the complex workings of legislative pieces that engage to varying degrees with gender identity issues, the next chapter focuses on the most specialised of them, that is, the legislation on gender identity recognition and its recent paradigm-shift.

Chapter 9. Identity Documents, (Mis)Recognition and the New Legislation on Gender Identity

As shown in chapter three, legal (mis)recognition and the amendment of identity documents has been a central issue in both trans academic literature and trans political struggles. The procedure and criteria under which a person is legally gendered have been debated in different fora and have created a legacy of trans/queer/feminist critical analyses, international jurisprudence and medico-legal analyses. In the Greek context, as shown in chapters five and six, this has similarly constituted, historically, a central issue for the legal management of gender non-conformity. It has also been the legal focus point for contemporary trans communities that have claimed an extra-judicial, affordable and, most importantly, de-medicalised process for the amendment of legal gender (GTSA 2015b; QueerTrans 2013).

In this vein, the present chapter presents the prominent issue of gender identity (mis)recognition as it is negotiated on different levels. In the first section, I offer a brief overview of the framework and judicial practice for the amendment of legal gender on identity documents prior to the newly introduced legislation. From the inaccessibility of the medico-legal processes connected to transitioning to the casual exchanges with state and private actors, trans individuals have been called to engage with overlapping mechanisms of recognition that, as the second section will show, offer no guarantees concerning the outcome of this interaction. Following the threads of my interlocutors' discourse, I provide the space in the text for this to be explored through the discussion of intimate instances of gender identity (mis)recognition, survival strategies and informal practices within a context of bureaucratic irregularity.

The second half of the chapter brings back the analysis of the legislative terrain by following the introduction of Law 4491/2017, which marks a paradigm-shift in the legal regulation of gender identity. Law 4491/2017 was presented by the SYRIZA

government as a legislative acknowledgement of trans citizens and a detailed regulation of trans issues *in concreto* that came to replace the decades long improvised judicial practice. The new legislation moved away from any medical requirements for legal gender amendment, but, at the same time, retained the judicial process for amending legal gender (even if, on a declaratory level, it prioritised self-determination) and brought new limitations concerning age and marital status.

Moreover, the introduction of the law became a massive media operation, establishing the public debate as an equally important legacy to its legal contribution. The sudden overproduction of media and political discourses on gender identity that flooded current affairs for several days produced an effect unprecedented for Greek trans communities and caught many trans individuals by surprise. Although I do not engage with the broader media debates that took place, I analyse the common front of right-wing and Orthodox opposition to the bill as it was expressed during the parliamentary discussions of the legislation. The connection between religious as well as nationalist imperatives and the regulation of gender and sexuality have been well recorded in the past (Halkias 2004; Athanasiou 2007; Canakis 2013; Athanasiou 2012; Apostolidou 2014; Chalkidou 2018). On this basis, I examine the ideological premises upon which the parliamentary opposition was organised in order to create an understanding of the way gender identity recognition entered the public debate as an issue of national importance in reference to social morality as well as national sovereignty. Lastly, I conclude this chapter by briefly interrogating, as in previous chapters, the work performed on a government-scale by the introduction of this law and, specifically, the aims and effects of its exploitation on the communicational front.

9.1. Amending Legal Documents under the Previous Legal Framework

The first explicit provision of the Greek lawmaker concerning the amendment of gender in identity documents came in 1997 after several decades of non-systematic

relevant judicial practise. Law 344/1976 On Civil Status Acts, as amended by Article 14(6) of Law 2503/1997 and replaced by Law 4144/2013 states that:

> *Changes occurring to the status of an individual after the editing of the civil registration acts due to […] changes in name, surname, sex are registered in the field of the information system of Article 8A, marked as "changes", within a month of receiving the relative administrative act or certificate on the finality of the relevant judicial ruling (Law 4144/2013 article 4[5], my translation).*

The aforementioned legislative provision remained for several years the only reference to trans people (not in such terms but under the purview of "sex change") in the totality of the Greek legal order. Given this brief and vague wording, it has been a matter of judicial interpretation to define the supposedly self-evident content of the term "sex change". Since the 1990s, the judicial practise has settled on a long and expensive procedure that requires various medical interventions (Greek National Commission for Human Rights-GNCHR 2015;Kounougeri-Manoledaki 2017b). The ruling judges have held that "sex change" occurs in cases that begin with a diagnosis of "transsexualism/gender dysphoria" and end in a "sex change operation" towards the genital anatomy of the opposite sex (Galanou 2016: 50).[177] Until recently, only after the completion of this medical process, an application could be submitted to the Civil Court of First Instance or a District Court (similar to the Magistrate Court) requesting the correction of name, surname and sex indicator on the birth certificate produced by the registrar (Galanou 2016: 49).

[177] In practise, the diagnosis of transsexualism or gender dysphoria is made by a psychiatrist who suggests that the person, after a series of sessions with a psychotherapist, should receive hormonotherapy under the supervision of an endocrinologist. If one can afford a private mental health consultations and private hormone treatment this stage can be significantly shortened. Most cases, nonetheless, go through public hospital psychiatrists and general hospitals that occasionally stretch this period even more. After a significant time of hormone admission and psychotherapy, if the person's health, age and financial situation allow it, they can seek the services of a private plastic surgeon to perform the chosen operations. There is no more than a couple of surgeons that perform this kind of procedures in Greece, leading in many cases to the choice of travelling to specialist clinics abroad, adding to the cost and difficulty of the procedure (GNCHR 2015: 10).

Such an application had to contain written certification by the psychiatrist to assert the diagnosis and the necessity of the undertaken treatment. Furthermore, written confirmation by the endocrinologist and the surgeon were also required, concerning the hormone therapy and, most importantly, the surgically modified genital anatomy. After several months, the application would be tried under voluntary jurisdiction procedure and usually with a witness on the applicant's side (GNCHR 2015: 15; Tsirou 2019: 48). Once the decision became final, the applicant could refer to the registrar offices with the decision and ask for an amendment of their birth registration act that would, until recently, maintain, a clear trace of the corrections, the reason for it and the relevant court decision (Tsirou 2019: 48).[178] As noted in chapter six, by the change of the century, court decisions on such applications had become rather codified in their decisions and reasoning, creating an unofficial standardisation of the procedure for both applicants and judges (Decision 6843/2007 First Instance Court of Athens, Decision 430/2013 First Instance Court of Patras, Decision 175/2006 First Instance Court of Rethymno).

In 2016, a radical shift in judicial practice began with decision 418/2016 of the Athens District Court which allowed the amendment of a trans man's legal gender without genital surgeries.[179] Following this case, more applications were brought in court, creating a body of judgements with various positive outcomes (Kati 2017; Leleki 2017; Sotiropoulos 2018; Tsirou 2019).[180] By winter of 2017, there were approximately twenty similar applications that had been accepted in courts across the country [Interview with Legal Professional 1 in 2017]. These cases marked a

[178] After the corrections are made official, the amendment of various official documents can be pursued by separate applications to the competent authorities (Galanou 2016: 50).

[179] Vassilis Sotiropoulos, the lawyer who represented the applicant, summarises the case as such: *This is the first judgment on a trans man case (female to male) who had undergone mastectomy and hormone treatment, without reassignment of female genitals. The court found that the obligatory sterilisation consists a violation of the right to respect private life (article 8 to ECHR) and the rights to equal treatments and non-discrimination (articles 2 and 26 International Covenant on Civil and Political Rights) (Sotiropoulos 2018, online).*

[180] Other examples include decision 572/2017 of the Athens District Court wherein a trans woman, which had undergone only hormone treatment, corrected her legal gender as well as decision 604/2017 of the Athens District Court concerning another trans woman, which had not undergone hormone treatment or surgery.

crucial shift in judicial practise even though they had to be supported by "proof" such as childhood pictures and mental health opinions.[181] Decision 418/2016 that marked the beginning of this change in judicial practice is hailed as "a pioneer ruling for trans people's rights in Greece", especially considering the fact that it preceded by a whole year the relevant shift in ECHR practice reflected in *A.P., Garçon and Nicot v. France* in 2017 (Tsirou 2019: 51).

The centrality of post-surgical genital anatomy within the legal process and the difficulties of the above-described procedure have framed for many years the interaction of trans people with the law. Moreover, what needs to be noted here is not only the effect of surgical preconditions as an overall principle but also the amplification of adversity by the inaccessibility of transition-related information and the severe lack of infrastructure. Until 2016 and the change in judicial practice, those who did not want or could not access (due to financial, age, citizenship status or other reasons) the required operations were presented with a legal impasse. As Hector described it in 2014:

> *First of all you need to go there and justify all this…I mean, ok […] I consider it tragic that they expect when someone refers to a sex change that it should mean you have gone through phalloplasty or the equivalent…depending on the gender you choose anyway, that is I consider it…I mean how can you force me to do this? Even the hysterectomy, it seems just insane to me, right? [Interview with Hector in 2014].*

Moreover, until very recently, accessing information about transition-related medical and legal procedures was a task on its own. At different moments we have discussed with my interlocutors the lack of information that would often make self-identification seem impossible. Especially for trans masculine people, the lack of any representation and the difficulty of the procedure often lead to "dead-ends", as Philip explained to me, forcing them to abstain not only from identifying as trans

[181] For a brief presentation of such cases see Sotiropoulos' article (Sotiropoulos 2018). For a doctrinal analysis of this litigation see Tsirou 2019.

but from living life itself. It has been through unofficial networks (such as political groups or friendship circles or random encounters) that each had to find their own source faced with a lack of any official or easily available information.

The same networks were used to understand and navigate the legal process as the two strands (medical and legal) were completely entangled. Dimitra Giannou accurately notes in her research about LGBT health inequalities in Greece that the networks created by political groups have often been crucial to the circulation of information about transitioning and other health issues (Giannou 2017: 159-160). In addition, she found that "the trans activists themselves were trying to control and limit the circulation of inaccurate and invalid health-care information within their groups" (Giannou 2017: 159). Lola herself was informed about the procedure she had to follow through a political group:

> *Me: And so…this functions as a network in a way…*
>
> *Lola: It's an infrastructure this group I think…*
>
> *Me: In terms of, let's say, informing people…*
>
> *Lola: Yes.*
>
> *Me: Cause you said it's not that easy to figure things out…*
>
> *Lola: Not at all! No, no, it's not easy, not even through the internet, there is no manual of sorts…*
>
> *Me: Did you try to figure it out through the internet first?*
>
> *Lola: No, I found myself straight away in this environment and got all the information I needed safely and everything was ok somehow, everything was as they said. But I know from other trans people who come to the group finally in person and they say "I have been searching for very long through the internet and until I found the forum - cause the group has a forum - until I found the forum I couldn't act with safety and I didn't know where to turn to". Like: there is a procedure that says that in order to*

> *proceed to the stage of hormonotherapy you need to be monitored by a psychiatrist and there are just two of them that are not in private practice. Until you get there you need to wait x amount of time for an appointment and he will postpone it and then postpone it again etc. This is something that someone needs to tell you how it's done, to describe it and to explain what the reasons behind it are etc. Because the psychiatrist will never explain to you why he denies that you are trans and why he needs to check again in two months…for example. So in any case I, for one, would not suggest to a trans person if they asked, I wouldn't say check the internet, it's all there. I wouldn't suggest this. For nothing. For none of the processes concerning transitioning. I would just get my phone out and give the numbers they need and it would go from there. [Interview with Lola in 2014].*

The time spent to find the necessary information, the time required for the entire medical process that was demanded and, in addition, the lengthy legal process all amount to several years of a person's life. This is currently changing not so much in terms of institutional infrastructure but more so in terms of media platforms that make information more accessible and allow the visibility of various trans identities and experiences.

Nonetheless, the costs and difficulties involved in the medical and legal process described above have forced many trans individuals to live without proper documentation and improvise their own legal realities. The next section focuses on aspects of these realities as they came up in discussion with my interlocutors in order to obtain an intimate understanding of the tangible experience of legal (mis)recognition within a specific set of bureaucratic systems.

9.2. The Tyranny of Discretion and Bureaucratic Survival Skills

The complications and impossibilities of navigating a bureaucratic state carrying identification documents that do not match one's gender presentation have been repeatedly recorded and protested by trans writers and activists (Whittle 2002;

Namaste [2005] 2011; Galanou 2011). Instead of attempting to list such adversities, I will take this space to conceptualise some aspects of this reality as they came up during the interviews. The first one concerns the tyranny of discretion, meaning the power that lies in the hands of employees across the administrative hierarchical chain to define the outcome of state or private sector exchanges, especially with members of marginalised groups. The second concerns the improvised practices that make trans legal lives liveable even when the legislator has not afforded them this possibility. Both points hint towards understandings of legal gendering that are less hung up on reviewing the script of the law and more open to a critical interrogation of institutional power and practices.

In chapter three, I engaged with critical literature on the modern state's project of identifying and registering citizens as a means of creating legible and, thus, manageable populations. Nonetheless, although problematising such state functions is crucial, legal scholarship has much to gain by acknowledging the importance of different scales of jurisdiction and their intertwining (Valverde 2009; Hubbard 2013). As Marianna Valverde notes:

> *Local idiosyncrasies, modern scientific facts, institutional habits, 'common knowledge', and situated knowledge of the ever-changing political context are all part of the decision-making processes in legal and regulatory governance. By the same token, highly local (and 'local' not just in the sense of quantitatively small) scales of governance persist alongside, and are intertwined with, national and international scales of governance (Valverde 2009: 143).*

Moreover, I would like to read this point complementary with numerous works, which indicate that legibility, order and lawfulness are to be read as the imaginary *telos* of bureaucratic mechanisms and not the actual reality of living within a bureaucratic state (Lipsky 1980; Handler 1986; Das & Poole 2004; Cabot 2014; Rozakou 2017). Indeed, Rozakou recognises irregular practices within bureaucratic mechanisms as a constitutive element rather than a failure of state functionality

and suggests that bureaucratic ambiguity and messiness is perfectly compatible with modern state modalities (Rozakou 2017: 39).

As trans writers have pointed out, challenging the normative understanding of the state's coherency and the solidity of bureaucratic practices proves crucial for the understanding of trans legal and administrative realities (Spade 2008; Currah 2014). Paisley Currah has rightfully noted that different approaches to legal gender and sex classifications usually entail a conceptualisation of the state as "a unitary thing", an institution that is rationally organised and characterised by coherence in its politics and practices (Currah 2014: 197). In reality, state-individual interaction is governed by numerous "intertwined and sprawling apparatuses" such as "legislatures, courts, departments, agencies, elected officials, political appointees, public servants, constitutions, laws, regulations, administrative rules, and informal norms and practices" (Currah 2014: 198).[182]

In this framework, authors writing about legal apparatuses, bureaucracy and state power have repeatedly pointed out "the role of discretion of low-level bureaucrats in enforcing a set of policies that are often associated with an unpopular group" (Spade 2008: 73). It is precisely this quality that is pointed out as the decisive factor in casual exchanges with state apparatuses but also other institutions and private entities. Even more so, the lack of a substantial legal framework concerning trans legal issues and their administrative management as well as the central position of informal or "irregular" (Rozakou 2017) practices within Greek administrative mechanisms have given prominence to a tyranny of discretion. That is, an uncontrolled power of the individual employee over the outcome of some exchanges which renders irrelevant an imaging of an over-arching philosophy, let alone constitutional or Civil law principle, concerning legal gender and its management by employees of public and private services.

[182] Moreover, as I have suggested in previous chapters, state law is translated in legal reality through constant re-readings of the law by its competent executors. In that sense, I examined the interpretation process within these re-readings as an instance of power that is inscribed with social norms.

"I will tell you two things that have happened to me," Hector told me in 2014, while discussing daily exchanges without gender-appropriate documentation. He proceeded to describe two instances of identity authentication with polar opposite outcomes depending on the employee. In the first one, the employee recognised Hector's connection with the ID card he carried:

> *Hector: (…) and he said to me "sorry to ask an indiscrete question," he says, "if this is not yours [the ID card] there will be trouble for you and for me." So I say "it's mine but I'm in the process of changing it" and such, and he said "ok, cool, no problem, sorry if I put you in a difficult position, I understand what you are saying but I needed to ask" he says. "I take your word for this and I believe it's yours" (…) and I was just shocked, right? [Interview with Hector in 2014].*

On the contrary, in the second story he was faced with an intense reaction and a complete denial on part of the employee.

> *Hector: (…) I'm talking about a complete black out, like he just wouldn't let me sign! He says, "You are kidding us, this is forgery" (…) he says, "No, he will not sign." Nothing! He just couldn't handle it in his own mind.*
>
> *Me: And what happened?*
>
> *Hector: Nothing, I didn't sign. I mean I signed and they annulled it. [Interview with Hector 2014].*

In these types of narratives, that were common in every single discussion I had on this issue, what is reflected is the extent of this unofficial margin of appreciation which lower-level employees (in the public and private sector) have, especially over underprivileged populations. Each employee appears to be in power when it comes to deciding over the authenticity of identification documents without following a typified procedure and, thus, without a predictable outcome.

> *Eleni: Mike is registered in OAED and he has to go every three months to renew his card. Well, until now it has gone pretty well, it's been ok, he is a bit stiff but…*
>
> *Mike: I have managed to get away with it.*
>
> *Eleni: He has managed to get away with it, he will casually put this thing [a wool scarf] up to here [the nose] (…) and then it's a matter of not getting a dumbass on your case, if you get a dumbass no way they will do it. [Interview with Mike and Eleni in 2014].*

This level of unpredictability for casual exchanges in reality does not allow any exchange to be experienced as "casual." In that sense, Currah's (2014) call to not assume absolute coherence within and among state institutions governing legal gender but rather to tap into a more chaotic and messy perception of state power seems highly relevant. Although Currah refers mostly to the fragmentation by different jurisdiction-levels and state agencies, my analysis focuses more on the informality and individual agency within Greek bureaucratic processes (whether public or private sector).

As analysed in chapter four, from the beginning of my research, I had chosen to follow Jacob Hale's suggested rules for writing about trans people. One of these rules states:

> *Start with the following as, minimally, a working hypothesis that you would be loathe to abandon: "Transsexual lives are lived, hence livable" (as Naomi Scheman put it in "Queering the Center by Centering the Queer") (Hale 1997b, online, page n/a).*

Regardless of having read this, I initially failed to understand how it transfers into the legal terrain. As I have hinted in chapter four, in the field of legal theory and lobbying, it is often assumed or strategically suggested that the lack of framework translates inevitably to a complete absence of possibilities. This initiates from the common perception that whatever the law has not allowed, predicted or provided

for is simply not conceivable. An approach, which implies that the lack of trans-specific provisions (e.g. for parenting, marriage or various state-individual interactions) inexorably precluded trans individuals from the practices that have not been legislated for them.

Subsequently, when I entered my first interview in 2014, I unwillingly held several underlying assumptions about what it means to live in a bureaucratic state without proper documentation and a legal framework that provides for your existence. Discussing with Lola about bureaucratic misrecognition and the impossibilities it entails, she noted in her own way the flaw in my initial positioning that was revealed through the wording of my questions:

> *Lola: I guess this is a huge ((she laughs)), a huge contradiction, that is, the moment when they say "is that you?," and I need to prove that yes…it is very ((she laughs)) it is indeed almost funny that I need to convince them it is me when in every other sense I have tried so much to convince people I am not that person, right? (…) it is just that I feel that being trans I have in a way experienced in the maximum degree conditions that, in a "normal" life, would easily shake things up. That is, within the framework of this reality wherein these things are imposed on me I need to find a way according to my own perspective (…) to do things, do them well and have a good outcome.*
>
> *Me: Yes, but the way you are registered forces you also to relate with this person you are recognised as, this position etc. Basically it implies that in letter only this person exists and…*
>
> *Lola: "…and who on earth am I after all?" ((she laughs)) No, look I cannot say that I have it in my mind as such…the way you said it now sounds a lot heavier than what I have in my mind. I think, and maybe I protect myself this way, that it is something technical that needs to be done, I need to do it in a few minutes and get on with my day. (…) But I don't…I would rather not see it this way because as you say it, it just sounds far too heavy,*

> *girlfriend. I won't go home and dwell on how unfair it is that I am not registered and how humiliating it is for me to have to do this…maybe I am used to such procedures, meaning that some things need to be done and they will be done, because there is no other way, so then, I too, will go and do them, one way or the other, and get over it [Interview with Lola 2014].*

Lola's observation, in this very first interview, steered me towards a more open approach that would allow a variety of informal and uncharted practices to emerge within the course of my research. Methodologically then, following the hypothesis that trans legal lives *are* lived hence liveable within the modern bureaucratic state, even when this has not been regulated, this creates a different space for discussion. Although there are many impasses and impossibilities, some of which have been thoroughly discussed in the previous chapters, there is also a variety of unofficial practices and tactics of survival that fly under the radar of the legislator and often the legal researcher.

By assuming this approach, I have come to understand through interviews and off-the-record discussions, that, in recent years, there have been Christian Orthodox weddings, joint parenting of children and even ID card amendments without the legal preconditions, all achieved through informal routes. I do not discuss events of such importance here due to ethical implications but there are numerous less grave instances that are enabled by the same dynamic engagement with what are presumed to be monolithic and unfragmented systems of (mis)recognition. For example, Lola mentioned how she managed to be admitted and treated in a public hospital "as who she is" without providing any documentation and, thus, remaining undetected as trans. Mike and his partner Eleni told me a story wherein Eleni appeared at a public service to collect a document posing as Mike because she resembled more the person pictured on Mike's ID than he did. Valeria and Sandra, both second generation migrants, narrated a kind of "administrative passing" thanks to their foreign names that are not immediately read as not-female by Greek functionaries, thus, allowing both women to navigate recognition systems without being read as trans.

> *Sandra: Yes I am in OAED and I have been to several public services but I never had a problem there. Even if they ask for my ID I just give it and in the ID...I look like that in the photo, I am like that...I am not, you know...and no one understands my name because it's foreign. (...) There is an 'M' in my passport, but it hasn't happened to me... Now there was an issue when I went to get my Greek papers done with this registration something, I don't know how it's called, because it said I belong with the males and then the guy said - I was there with my mum - so he said "this must be corrected because there must be some mistake." And there I had to explain…I was very close to saying "yes let's just correct it now" but my mum wouldn't let me cause she said there will for sure be some mix up later. [Interview with Sandra 2017].*

Furthermore, Nataly told me that she asked the Head of the Institute of Vocational Training she attends to amend her name in the register but was denied on the self-explanatory grounds of it being an official public document that cannot be altered at will. Her reaction was to manually change it ("smudge it") herself, a practice that was then followed by her professors who ignored the Director's denial and manually corrected her name on their lists. Philip described a similar process in the higher education public institution he attended:

> *Philip: (…) Well, I for one went to the secretariat of my university and I asked it [changing his name in the student register], and I told them without having any document "could you change this for me?" And she did.*
>
> *Me: Oh she did! I have heard some other people having done this.*
>
> *Philip: Yes, she changed it and…she talked to the professors and they changed the student lists in their own classes, which cannot be done by the secretariat and so about ten professors knew about it.*
>
> *Me: Without you having papers and such.*

> *Philip: Without having papers, no. It was a matter…it depended on the person let's say.*
>
> *Me: And you haven't had any problems?*
>
> *Philip: Well, I used to have before I changed my documents, but I was still ok with it. I mean even if I had to provide documents before I changed my ID card and I had to say "yes, it's me, read here", I still didn't have a problem with it. I told you about when I went to the revenue and the lady there said "well, and you are a good-looking youngster too" ((we laugh)). Because it depends on how each person is going to take it. [Interview with Philip 2014].*

The procedure described by Philip and Nataly is far from being a proper protocol. Not only because there was no relevant provision in place but also, and more importantly, because university catalogues and degrees are public documents that cannot just be amended at an employee's discretion. Nonetheless, especially before the recent legislation, most of the administrative procedures had to be improvised to a certain degree.

That said, especially in eras of complete lack of legislation and valid information on legal issues of gender non-conformity, individual agency makes this terrain a two-way street adding to the unpredictability and, thus, the messiness of the formal management of trans legal issues. Throughout this section, I have used the word "tyranny" in reference to low-level employees' unofficial margins of discretion in order to convey a power that does not necessarily listen to reason and cannot be disputed, as well as in order to communicate some of the affective elements produced such as fear and uncertainty. Nonetheless, at the same time, this informality and messiness presents possibilities that are not provided by or are against the law. Judith Butler, in discussion with Athena Athanasiou, makes a point similar to Currah's argument about considering the incoherency of state regulatory frameworks. "In such matters," Butler notes, "the 'state' is not a single monolith, but a field of conflicting trends" adding also that "we probably should be glad for

that lack of conformity and consistency, since it produces more opportunities to deploy the law against itself" (Butler & Athanasiou 2013: 85).

As my interlocutors' attitudes exemplify, there are different routes to achieving the desired outcome within a hostile legal environment. In that sense, in light of the lack of typified protocols and policies and the increased informality within Greek bureaucratic systems, individual agency has been central in the unfolding of legal realities. At this point, what needs to be clarified is that the discussion of these practices does not indicate an intention to conceptualise them as the optimistic counterweight to exclusion or violence but rather to align with what Aren Aizura has called "a realist call to honour the zones of alternative trans being emerging under the duress of impossibility and to remain open to not knowing what they look like in advance" (Aizura 2014: 143). That is, I do not suggest, in the face of legal and overall systemic perpetuation of social hierarchies, "taking refuge in a narrative of empowered agency as antidote" (Aizura 2014: 143). Rather, I argue that the instrumentalisation of the incoherency of bureaucratic protocols needs to be conceptualised within a broader toolkit of survival tactics employed by trans individuals in the daily interaction with service providers and state functionaries. Understanding how such tactics function is crucial in understanding the reality of trans engagement with the law.

In this vein, even though broader political imperatives can be written into main legislative pieces concerning gender classification and other trans legal issues, the daily practices might perplex or contradict these imperatives. As Currah (2014) notes:

> *Fetishizing a generalized idea of the state and its terrifying or redemptive power (depending on one's perspective) can obscure what is actually happening in the local, micro, particular sites where most public authority is exercised. While it is crucial to theorize the singular finality of state violence, neglecting to examine the messiness of actually existing and potentially incommensurate policies, practices, rules, and norms risks*

> *substituting the conceptual for the concrete and gets in the way of understanding what might actually be going on (Currah 2014: 199).*

As seen in chapters seven and eight, as well as the present one, the individuals affected by the examined legislation often prioritise this understanding of the legal order ["what is actually happening in the local, micro, particular sites where most public authority is exercised" (Currah 2014: 199)] rather than the official version wherein the existence of state regulations supposedly defines the day-to-day management of legal and administrative issues.

In this section, gender identity (mis)recognition was analysed with a focus on the informality and incoherence within state and private mechanisms of recognition. Under the previous legislative framework, which was briefly discussed in the previous section, the ambiguity and lack of protocols and infrastructure was conceptualised as a terrain of arbitrary power for low-level employees wherein the fate of trans claims relies on the random, the individual, the unpredictable. At the same time, by assuming an approach that acknowledges and values the multiplicity of survival tactics employed by underprivileged groups, the same ambiguity has also been presented as a field of negotiation. Having composed an image of the ways gender identity (mis)recognition has been managed under the previous legal framework, the next section follows the introduction of new legislation concerning gender identity recognition. In the next section, Law 4491/2017 on gender identity recognition is situated in context and presented as a legislative text that marks an unprecedented paradigm-shift in the legal regulation of gender non-conformity and, more specifically, trans identities.

9.3. The New Legislation on Gender Identity Legal Recognition

9.3.a. Introducing the Bill on Gender Identity

By 2015, the continuous deepening of austerity, the repression towards political movements, and the rise of the far right in Greece and internationally had fostered

a sense of broader political disillusionment. This translated to a complete collapse of the ruling political regime and the election of SYRIZA, which, in turn, brought a momentary eruption of short-lived political optimism.[183] After the 2015 referendum and the shift of SYRIZA's orientation (from full-heartedly "anti-memorandum" to proceeding with negotiations on the fiscal restructuring), the political sentiment changed once more (Brekke, Filippidis & Vradis 2018; Roufos 2018). It became evident that the SYRIZA government not only would *not* reject the harsh negotiation terms set for Greece but would also be able to enforce policies that normally would have been met with great political resistance by the local Left (Roufos 2018). Moreover, the arrivals of migrants at the Greek borders dramatically increased during 2015, which marked the peak of what is called the "refugee crisis" and its biopolitical management, as well as the beginning of a new political reality in Greece (Rozakou 2015; Carastathis, Spathopoulou & Tsilimpounidi 2018; Carastathis 2018c).

At the same time, the position of LGBTI+ (and other minority) rights discourses became more central within the mainstream political agenda. Many parameters led to this change, such as the mainstreaming of anti-bullying discourses (Giovanoglou 2015), the international currency of LGBTI+ politics and cultures, and the channeling of European funds towards such politics, as well as the NGO-isation of minority rights politics on a national level. Especially the latter in combination with the election of the SYRIZA-coalition in power brought a change not only in the mainstream political discourses that now came to adopt a minority rights political lexicon but also in the position of LGBTI+ activism within the institutional sphere.

In 2015, the newly elected government of SYRIZA committed to grant central legal claims of LGBTI+ communities, such as the extension of civil union to same-sex couples and gender identity recognition on better terms (Papantoniou 2015; Kostopoulou 2015; Antonopoulos 2015). A new era was, thus, initiated as shown by

[183] This was exemplified by the SYRIZA campaign motto "hope is coming," which also spoke to the centrality of futurity in the given political climate and the understanding of Greece as a precursor for European futures (Bratsis 2016).

the employment of LGBTI+ rights language by the government itself. Terms such as "gender identity" (ταυτότητα φύλου), "transphobia" (τρανσφοβία) and LGBT/LGBTQI (ΛΟΑΤ/ΛΟΑΤΚΙ) were introduced in mainstream political vocabularies and were later on (during the voting of the bill on gender identity) circulated in media debates and broader social circles. After introducing a bill on same-sex cohabitation contract, a special law-drafting committee was created in April 2015[184] to work on introducing a new bill on gender identity recognition (Ministerial Decision No. 20692/7.4.2015).[185] The main points of the submitted bill were a declaratory definition of gender identity aligning with the Yogyakarta Principles and the explicit detachment of official gender from strict anatomic topologies by suggesting a procedure without any medical precondition. Nonetheless, when the bill on gender identity recognition was finally uploaded to the Ministry's site for public consultation, it was met with wide criticism. As pointed out by trans lobbying groups and legal professionals working with them, the bill was problematic in more than one way (Sotiropoulos 2017; HuffPost Greece 2017b; GTSA 2017d; Alexandris 2017; GTSA *et al* 2017).

The main point of the criticism from LGBTI+ activists concerned the fact that the bill maintained a judicial procedure which was still far from the "quick, transparent and accessible procedures" that the PACE Resolution on the Discrimination against Transgender People in Europe suggested (PACE Resolution 2048/2015: 6.2.1). More importantly, the new bill introduced limitations for amending legal gender that did not exist under the previous framework (Sotiropoulos 2017; GTSA 2017d). Last, the bill had also serious shortcomings such as not including a provision for migrants, refugees or people in the process of seeking international protection at a time

[184] Additionally, on September of the same year the Greek National Committee for Human Rights published a detailed text of recommendations under the title of "Transgender People and Legal Recognition of Gender Identity", that suggested legal improvements covering a variety of aspects such as health, employment etc. (GNCHR 2015).

[185] Nonetheless, it would be approximately two years until the bill reached the parliament, despite pressures on part of LGBT lobbying groups who protested the unjustifiable delay (The Greek Ombudsman 2017; GTSA 2017c). As Katerina Fountedaki, who was part of the law-drafting committee explains, the draft of the bill had been submitted by the committee a year and a half before coming to parliament; "It was left in a drawer, no one examined it and then at some point they remembered it" (Fountedaki in Georgiou 2017a).

when the issue of LGBTI+ people seeking asylum in Greece had been stressed by lobbying and other political groups as crucial (GTSA 2016b; Galanou 2018).

These were the main points of disagreement that were pushed forward by the NGOs and organisations that were heard during the parliamentary discussions (Hellenic Parliament, 17th Term, Plenary B, Standing Committee on Public Administration, Public Order and Justice 27.09.2017 meeting minutes). Nonetheless, the only one that the Ministry showed willingness to re-negotiate was the age limit, which, in turn, as we will see in the following sections, monopolised a large part of the public and parliamentary debates. The final text of Law 4491/2017, which is reviewed in the next section, was voted in with a comfortable majority and includes seven articles that comprise the first part of the law while the second part of the law regulates unrelated issues such as the institution of a National Mechanism for Development, Monitoring and Assessment of Action Plans for the Rights of the Child.[186]

9.3.b. Law 4491/2017 On the Legal Recognition of Gender Identity

Article 1 ("Rights of a person based on gender identity and characteristics") of Law/4491/2017 has a declaratory character establishing the right to the recognition of a person's gender identity as part of their personality. Moreover, it declares the right to the respect of a person's personality in view of their gender characteristics.[187] This provision does not have the capability of legal enforcement but rather an abstract enunciatory value. Article 2 ("Definitions") defines gender identity as:

> *The internal and personal way in which a person experiences their gender, regardless of the gender that was registered in birth based on biological characteristics. Gender identity includes the personal sense of the body, as*

[186] The regulation of different, often completely irrelevant, issues in the same text is common practice in the Hellenic Parliament legislative process.

[187] Additionally, it categorises gender characteristics (chromosomal, gonadal and anatomical) in primary, i.e. reproductive organs, and secondary, i.e. muscle mass, development of mammary tissue and hair growth (para. 2 art. 2 Law 4491/2017).

> *well as the social and external gender expression, which correspond to the person's will. The personal sense of the body might also be connected with changes due to medical treatment or other freely chosen medical operations (para. 1 art. 2 Law 4491/2017, my translation).*

Although the wording differs slightly, the text follows the definition given in the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity (Yogyakarta Principles 2006). On a doctrinal level, the shift compared to all relative texts that have attempted to manage gender variance within the Greek legal order is rather obvious. That is, from the self-evident character of sex that is given by nature (assisted by science) and mirrored in legal gender, this provision moves onto a fundamentally different paradigm wherein the will of the person has a central role in the definition of gender identity. Although this definition remains within the boundaries of a binary understanding of two mutually excluding genders, nonetheless, the departing from bodily characteristics and the introduction of the person's will as a central component mark an immense shift from previous national legal texts.

The most substantial part of the law lies in Articles 3 and 4 which regulate the preconditions and procedure for the correction of registered gender. Article 3 states that, "in case of discordance between [a person's] gender and the registered gender, the person can request the correction of their registered gender in order to correspond to the person's will, personal sense of the body and external appearance" (para 1 art. 3 Law 4491/2017). The conflicting decisive criteria of the personal will and bodily sense, on one side, and physical appearance, on the other, leave open to criticism the safeguarding of the law's own definition of gender identity.[188]

[188] Although, before the voting of the bill, the Scientific Service of the Hellenic Parliament had suggested the use of the term "gender expression" in order to imply a broader spectrum of ways in which people perceive and express their gender, the final text followed the original wording referring to external appearance (Scientific Service of the Hellenic Parliament 2017: 5). This wording becomes further problematic in light of the introduced procedural "detail" of the required presence of the applicant during the discussion of the case (para. 2 art. 4 Law 4491/2017). That is, although

The legal preconditions for the correction are the full capacity to perform legal acts and the unmarried status of the applicant (para. 2 & 3 art. 3 Law 4491/2017). The full capacity clause initially would have entirely excluded minors from the purview of this law. After the re-negotiation of this part during parliamentary debates, the final text exempts from the legal capacity clause minors who are at least 17 years old and have parental consent for the amendment (para. 2 art. 3 Law 4491/2017). Moreover, for minors of at least 15 years of age, other than parental consent, a different procedure is to be followed requiring the positive opinion of an interdisciplinary committee established by the Ministries of Justice and Health. This committee is required to include a child-psychiatrist, a psychiatrist, an endocrinologist, a child-surgeon, a psychologist, a social worker and a paediatrician as committee President, all of whom are required to be specialists on the issue (para. 2 art. 3 Law 4491/2017).

Discussing the new legislation with one of the legal professionals I interviewed, who has represented trans clients in the past, she notes:

> *L. P. 1: I think that the other issue is how the law will be interpreted concerning minors. There we'll see… This, for me, is basically inapplicable. That is, a child going ahead with this process with the committee - whenever this committee is created, because they need to issue a presidential decree to institute the committee, who are the members going to be? It then needs to convene; they each need to see the kid individually as members of the committee and then reach a verdict. This is very…ponderous...and it was simply a way to basically say yes, we accept it but...well…*
>
> *Me: … but it won't be applied.*

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the bill's explanatory memorandum declared that "gender identity is an issue of self-definition" (Law 4491/2017 Explanatory Memorandum, p. 2), this paragraph allows for the outcome of the application to depend, in a sense, on the person's physical appearance and its judicial appraisal (GTSA 2017d, Amnesty International EUR 25/6692/2017).

> *L. P. 1: Yes. And this was not in the draft that was submitted by the law-drafting committee, it came as an amendment in the parliament. [Interview with Legal Professional 1 in 2017].*

Indeed - even if one disregards the lack of specialists to create such a committee - practically, and in light of how lengthy such processes are, it seems more feasible for a trans minor to wait two years (from 15 until 17) and avoid going through such a committee. It is rather obvious, as noted in the excerpt above, that this provision was added to show a positive disposition towards trans lobbying groups in light of the dismissal of all their other points of critique (concerning the judicial process, the unmarried status precondition and the lack of provision for non-Greek citizens). This exception more likely came to bridge the claim of lobbying groups about the age limitation being harmful for trans minors and the general call to protect children that escalated into a widespread moral panic fuelled by the media, politicians and the clergy (Galanou 2017).

The second positive precondition, that is, the single status of the applicant, was also a point of contestation. The rationale behind this provision is avoiding *de-facto* legitimising same-sex marriages against the will of the Greek legislator (Law 4491/2017 Explanatory Memorandum, p. 2). The Scientific Service of the Hellenic Parliament expressed concerns about the possible incompatibility of such a limitation with Article 8 of the European Convention on Human Rights which provides a right to respect for one's private and family life (Scientific Service of the Hellenic Parliament 2017: 6). Additionally, the Scientific Service suggested the discordance of this provision with Article 6.2.3 of the PACE Resolution on the Discrimination against Transgender People in Europe (PACE Resolution 2048/2015), which explicitly advises against such a limitation (Scientific Service of the Hellenic Parliament 2017: 6). Nonetheless, the Ministry concluded that, since a same-sex cohabitation contract is an available option in the Greek legal order which produces “almost all the rights and responsibilities of marriage”, the provision is aligned with

the European Convention on Human Rights as well as the European Court of Human Rights jurisprudence (Law 4491/2017 Explanatory Memorandum, p. 2).[189]

Lastly, article 3 adds a negative precondition to underline the legislator's intention behind this text. Paragraph 2 of the article reads:

> *For the correction of the registered gender, it is not required to establish that the person has undergone any kind of operation. Additionally, no previous examination or medical treatment concerning physical or mental health is required (para. 2 art. 3 Law 4491/2017, my translation).*

This paragraph came to solidify the judicial practice that had already started to develop since 2016, taking it one step further by not requiring a mental specialist diagnosis and placing Greece among the very few countries in Europe that have accepted such a non-medical procedure in their legal order.[190] In this sense, this can be seen as the core of the text, since it explicitly (and not by omission) declares the separation of the legal process from any medical process of gender confirmation. Obviously, this was a central point of contestation for those opposing the new legislation and the separation of legal gender recognition from a mental health professional diagnosis (see indicatively Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 321, 324, 329, 350).

Regarding the procedure, Article 4 dictates that the application to correct the registered gender follows the process of voluntary jurisdiction regulated by article 782 of Code of Civil Procedure (para. 1 art. 4 Law 4491/2017). That means, in short,

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[189] Indeed, the ECtHR has ruled that "it is not disproportionate to require, as a precondition to legal recognition of an acquired gender, that the applicant's marriage be converted into a registered partnership as that is a genuine option which provides legal protection for same-sex couples that is almost identical to that of marriage" (*Hämäläinen v Finland,* 2014). Nonetheless, this precondition not only has been criticised in the aforementioned PACE Resolution, but also it has been recently rejected by the Court of Justice of the European Union in *MB v Secretary of State for Work and Pensions* (C-451/16) and the Views adopted in 28.06.2017 by the United Nations Human Rights Committee (CCPR/C/119/D/2172/2012). Moreover, various national judicial bodies (such as the constitutional courts of Austria, Germany and Italy) have considered similar clauses as amounting to unequal treatment (GTSA 30.3.2019).

[190] According to TGEU's 2018 data, these countries are Denmark, Greece, France, Ireland, Malta and Norway (TGEU 2018).

that the judicial character of the process is maintained and the same courts as previously retain competence to examine such an application. This was a key-point of critique on the side of both those opposing the legislation as well as the lobbying groups. On the part of the former, it was suggested that the procedure does not seem to provide the judge with any tangible criteria (given the lack of all diagnoses) in order to adjudicate and, in doing so, it does not provide him with any grounds in order to reject the application.[191] On the other side, on part of the LGBTI+ and ally groups, the critique concerned the core of the judicial process, that is, the way in which the orientation of the bill towards self-determination seemed to be contradicted by maintaining the judge's role in deciding the outcome of the application (Hellenic Parliament, 17th Term, Plenary B, Standing Committee on Public Administration, Public Order and Justice 27.09.2017 meeting minutes).

Moreover, this way, the difficulties caused by the lengthiness and financial cost of the process were disregarded in light of the safeguards provided by a judicial decision. The Explanatory Memorandum noted to that end:

> *It is a short, simple procedure, with low cost and with legal certainty guarantees for the citizen as well as the legal order as it coheres with the procedure followed for changing name. The legal recognition of gender identity is, primary, an issue of self-definition. Nonetheless, it could not be overlooked that identity information of the person is of interest to the state*

[191] Since the person's will is recognised as the central criterion, those opposing this part of the bill suggested this constitutes a stripping down of judicial authority and eventually a parody of a trial. *Moreover, for gender reassignment it is required and has been a constantly considered by courts, as a necessary substantial precondition, a medical opinion that proves what is called a "persistent gender dysphoria" of the applicants. In this way, the judge considers the crucial evidence of a medical opinion or psychiatric examination in order to reach a substantial judgement. This is the case in thirty-six out of forty-one counties of the European Union. You, with the present bill, come to turn the judge, by removing the precondition of a diagnosis, into a perfunctory administrative instrument, since he can only accept the applicant's will. This is wrong and we disagree with that (Nea Dimokratia MP Panayiotopoulos in Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 321, my translation)*
This excerpt is from the speech of the rapporteur of Nea Dimokratia during the Plenum session, who was one of the several MP's of this party to object the bill on the basis of this provision. The same objection was expressed by representatives of Golden Dawn (Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 335, 340) as well as the Communist Party (Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 328).

> *and society as a whole (Law 4491/2017 Explanatory Memorandum, p. 3, my translation).*

Although there have been suggested legal manoeuvres to escape the impasse of article 782 of Code of Civil Procedure, which requires a court decision for substantial changes in register acts (Sotiropoulos 2017), the Explanatory Memorandum leaves no doubt that this is just not a procedural issue even if it was presented as such by some members of the government (Alexandris 2017).

Article 4 also brought a few differentiations compared to the process followed until now. First, the applicant is required to be present in person while, until then, they could be represented by a lawyer (para. 2 art. 4 Law 4491/2017). Secondly, the process is required to take place in a private office and not in the courtroom in order to provide privacy (para. 2 art. 4 Law 4491/2017). This is an important differentiation compared to the previous practice of conducting the hearing within usually overcrowded courtrooms. As the president of GTSA notes, and tapping into what was discussed in the previous section, during the first year of the law's application, several judges have ignored this provision, conducting public hearings regardless of the applicants' objections (Galanou 2018).

Another important procedural change is the secrecy of the amendment of legal gender. To that end, the court judgement is submitted to the competent registrar's office and a new copy of the birth register act is issued incorporating the correction and becoming the primary document for the issuing of new informed documents from all other services (para 2 art. 4 Law 4491/2017). Law 4491/2017 dictates (in two separate articles) that the whole procedure guarantees secrecy and the new documents bear no trace of the correction that has occurred (para 2 art. 4 & art. 6 Law 4491/2017). Nonetheless, it is still the person's responsibility to oversee the correction of their information for every single service, a process that, in itself, is lengthy and difficult to navigate (Galanou 2018).

Article 5 ("Results of the correction of the registered gender") dictates that the rights and responsibilities of the person that were created before this process

remain the same after the correction of legal gender (para 1 art. 5 Law 4491/2017). In practice, this is not the case on at least one occasion, since, in Greece, military service is compulsory for male citizens who are drafted from a separate male register (*μητρώο αρρένων*) (Law 2119/1993, OGG A΄ 23/4.3.1993). This issue was repeatedly brought up in parliamentary debates, mainly by those opposing the bill, as one of the primary points with multiple implications for potential fraud (see indicatively Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 348, 356, 373).[192] In this case, what is suggested is a supposed risk of men changing legal gender in order to avoid military service. Although I will not entertain this hostile and unrealistic argument, the fact remains that military service is a significant differentiation between male and female citizens in Greece.[193] Obviously, the lack of any reference to this issue in the new legislation is a remarkable omission. As a

[192] Fraudulence is a common axis around which anti-trans argumentation is often organised (Bettcher 2007; Sharpe 2018). Indeed, during the Parliamentary Debates the scenarios concerning various possibilities of committing fraud by amending legal gender were entertained (see indicatively Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 322, 350, 381). The lack of preconditions along with the secrecy granted by the law and the possibility to repeat the process were thought to create a tool for all sorts of fraudulent behaviour, from economic crime to terrorism (Fountedaki in Georgiou 2017a). The general concern about fraud was indirectly addressed by a provision, which states that after the correction of legal gender the entire process can be repeated only once more (para 4 art. 4 Law 4491/2017). Although there is no literature or practice of people engaging in multiple legal corrections, this provision came to respond to the articulated anti-trans demands for "safety" against not only fraud but also a dreaded instability.

[193] There have been different practices on the part of trans individuals concerning military service. Trans women, for example, who have not amended their documents and have not completed their military obligations can request a permanent deferment on the grounds of having mental health issues. The procedural part of such an a application is long and hostile, as it requires being drafted and appearing in person to be examined by a committee of medical (in this case mental health) professionals within (all-male) military compounds (Article 13 Law 3421/2005 as amended by Law 3883/2010; Presidential Decree 112014).
In cases of female to male legal change, the male legal gender entails the person's registration at the male registers. Since men are drafted for the first time when they turn eighteen, appearing at the male catalogues at a later age and without having already presented to the army, automatically, raises a flag in the system. For example, as Philip explained to me in 2014, after he changed his documents he received a letter from the military court that he was being charged with draft evasion, as he appeared to be a 25-year old male citizen who had not appeared to serve in the army or to request a postpone of his service. He, thus, presented in court with all the medical and legal documents and was cleared of both the accusation and the obligation to serve. Nonetheless, as I discussed with both Philip and Mike, the lack of protocol can also mean that if the person wants, they could actually serve. Mike did note that he thought about serving but he was discouraged by the army staff who were rather worried and considered this a risky move for him [Interview with Mike in 2017]. There have been cases of trans individuals both trans women (still registered as male citizens) and trans men (registered as male citizens after the amendment) serving in the army but there are no protocols in place and no officials records that establish this.

government representative noted with regards to this lack, it "is better if we don't open it [this issue] right now, not everything is that easy" (Giannakaki quoted in Alexandris 2017). This hints to the contestation attached to the core of ethno-sexual values that were mobilised during the public debate as we will see in the next part.

The last important point is located in paragraph 2 of the same article, which notes that any existing parental rights and responsibilities are not affected but also that the name and identity information on the children's birth registration act (and thus all identity documents that are issued based on this) cannot be amended (para 2 art. 5 Law 4491/2017). Obviously, this directly conflicts with the rule of secrecy that is so much emphasised (by unnecessarily being repeated in two articles) by the law. That is, in practice, the person will have to reveal the correction and the previous information in every instance that kinship needs to be established with children born before the correction (Sotiropoulos 2017).[194]

Overall, the new law was advertised by the government as a legal breakthrough of immense proportions. Although Law 4491/2017 did mark a new era for trans lives and politics in Greece, on the level of legal practice, its results are controversial. That is, securing the separation of legal gender from post-operative anatomy, through a legislative text, is undoubtedly a crucial development. Detaching not just surgical intervention, but all diagnoses from the amendment of legal gender removes a significant barrier for trans lives and their interaction with the law. Nonetheless, as noted by commentators with an in-depth understanding of legal practice and the character of this reform, in light of the pro-existing shift in judicial practice, this development came at a disproportionate price (Sotiropoulos in Kati 2017).

The positive outcome came to secure and broaden this judicial practice but, in the same gesture, introduced significant limitations that were not in place. In this

[194] For a detailed and comprehensive description of the entire legal procedure and its practical pitfalls see Sotiropoulos' presentation in the Athens Bar Association seminar "Legal protection of gender identity" (Sotiropoulos 2019).

sense, it left lobbying groups with the impression of taking steps forward and backwards at the same time (Galanou in Nini 2017). Moreover, although the introduction of the law was made into a large operation in executional terms, it did not alter the procedural core of the existing legislation (that is, the requirement for judicial judgement itself), thus, losing the momentum for such a reform (Papadopoulou in Georgiou 2017b). The question of whether it is preferable to have a generic and vague law that allows anything it does not forbid or more comprehensive legislation that brings stricter control and regulation resulting in stricter limitations begs further critical thought in the aftermath of the voting for the law.[195]

It also should be noted that neither the addition of "sex-change" as a possible ground for amending legal documents in 1997, nor the recent significant shift in case law, triggered such a wide political debate and media frenzy as the new legislation did. That is, the communicational management of the issue was a political choice in itself, and had less to do with the legal changes that occurred and more with the socio-political implications of this initiative. Indeed, a whole new communicational terrain was formed through the parallel processes of parliamentary discussions and the explosion of the issue in the media and the opposing discourses left their imprint on the public opinion and the conditions of trans life.

In this vein, after having contextualised and presented Law 4491/2017, the next section explores some of the ideological premises that constituted the basis of the opposition to its introduction. Although the public and media debate is worthy of a thorough study on its own, due to the focus of the present chapter on the legislative process, I want to draw attention to the parliamentary debates on the issue. In the next section, I analyse the dominant anti-trans rhetoric as it was developed initially by the Orthodox Church of Greece and later transferred and amplified by the right-wing in the parliamentary debates before the voting.

[195] This point was made by Sotiropoulos in the event "Legal Recognition of Gender Identity" was organised by the Centre for European Constitutional Law in 18.10.2017.

9.3.c. Defending Sex, Defending the Nation: The Orthodox Church and Far-Right Common Front

The introduction of the bill on gender identity recognition triggered an intense political debate within the Greek Parliament.[196] The parliamentary discussions that took place in late September and early October of 2017 included a variety of arguments opposing the bill, from religio-ethical and ideological to purely technico-legal, and everything in between. In the previous section, alongside the reading of the final text, I pointed out the main legal objections that were raised during these discussions on different sides (including LGBTI+ lobbying groups). In this section, I will entertain some of the broader ideological arguments that framed the opposition to the bill within the parliament and were reflected in a large part of the public debate on the issue.

Although the bill was opposed on many grounds by political forces across the political spectrum, the strongest opposition, as expected, came from right-wing political forces, with Golden Dawn setting the pace. Specifically, this section examines the core of the direct opposition to the bill as it was often exemplified in the speeches of Golden Dawn representatives. It also sets out to explore the central ideological notions of this opposition in order to comprehend their rooting within Greek political culture.[197] Religious values and the "anti-Orthodox" character of the bill were structural for the anti-trans discourse articulated by far right wing representatives in the parliamentary debates. Forming a common front with the

[196] Even before the discussion on the content of the bill started, a political crisis rapidly formed around its introduction. The governing coalition of SYRIZA and ANEL (a small right-wing populist party that was the junior coalition partner) seemed to be testing its limits on this law. With ANEL struggling to compromise its ideological basis with anything other than traditional gender values, other political forces, which had already declared they would support the bill, threatened not to vote it unless both coalition parties do (Chrysopoulos 2017). Their rationale was that the governing coalition appeared coherent in some issues (such as austerity measures) while relying on opposing political forces to achieve majority for issues that create internal tensions (such as issues or national sovereignty and LGBTI+ rights). Although this crisis was overcome, it marked from the beginning this legislation as intensely contested and destabilising (ekathimerini 27.09.2017).

[197] Methodologically I have chosen not to engage with some extreme parts of these discourse because I hold that the overall analysis does not necessitate the reproduction of such level of hostile arguments.

Orthodox Church of Greece, whose ideological presence in the parliamentary debates far exceeded its official representation,[198] the main opposition of the far-right, was based, as I will suggest, on a juxtaposition between LGBTI+ claims and Helleno-Orthodoxy, state sovereignty and heteronormative futurity. In this sense, the characterisation of sexual and gender "deviance" as an anti-Orthodox and especially anti-Hellenic attribute constituted an integral part of the opposition to the law on gender identity recognition

i. Nation, Orthodoxy and the Future under Attack

A few months prior to the voting relating to the bill, an educational program introduced by the Ministry of Education Research and Religious Affairs gave way to an anti-trans campaign whose content transferred *in toto* into the following discussions about the bill on gender identity.[199] During this outburst of the OCG against the programme's stream titled "gendered identities," which actually had very little to do with trans identities, a variety of texts was produced by the clergy, the religious media, academics and politicians. Invoking a system of notions that are threatened simultaneously by gender/sexual transgression and create a porous schema of moral/social/religious values, the Orthodox front repeatedly depicted gender and sexual non-conformity as a threat to the nation's survival (Holy

[198] Populist right-wing parties with conservative agendas have been traditionally connected with the OCG on many levels. Nonetheless, far-right ultranationalist strands (such as the Golden Dawn) with their anti-systemic discourse have been, at times, politically estranged from the socio-political stance of the OCG (Papastathis 2015). Nonetheless, during these parliamentary discussions they made an explicit point in forming an alliance with sections of the Orthodox leaders.

[199] This campaign targeted a new educational program, known as "Thematic Week" about "Body and Identity", which was introduced in high-schools across the country by the Ministry of Education, Research and Religious Affairs (Ministry of Education, Research and Religious Affairs, Document n. Φ/20.1/220482/Δ2). The three streams of the programme were "food and quality of life", "prevention of addiction and dependence", and "gendered identities".
Although the content and necessity of the first two streams have barely been debated publicly, the third stream created an outcry especially on the part of the OCG. The actual focus of the gendered identities' stream was gender stereotypes, women's rights and gender based violence. There was only one mentioning of "homophobia and transphobia in school and society" among its non-mandatory points for discussion (Institute of Educational Policy website, Thematic Week section). This was enough to spark a campaign on part of the OCG against what a segment of the press depicted as "transsexual lessons," which supposedly propagated trans-ness, gender fluidity and sexual perversity (HuffPost Greece 2017a).

Metropolis of Corfu 2017; Holy Metropolis of Glyfada 2017; Holy Metropolis of Aetolia 2017; Panhellenic Union of Theology Professors – Corinthian Division 2017).

For example "health" and "nature" as synonyms to moral values of Hellenism are opposed to a complex notion of "deviance" or "anomaly," which contradicts simultaneously "nature, health, law and national ideology" (Apostolidou 2014: 240). "Sin", here, is not contained in divine metaphysics but overspills in other terrains, achieving a complementary synthesis of the social, the religious, and the legal terrain, which renders them inseparable. Such synthetic discourses, were thoroughly exploited in the anti-trans campaign of the OCG wherein religious and moral principles overlapped with physical attributes and secular scientific authority. Invocations of scientific authority run through the produced texts and led to the organisation of various conferences and events by local religious unions (sometimes with the support of the local municipal authorities). These hybrid events have a semi-religious and semi-scientific character bringing together speakers from various fields (educators, medical professionals, sociologists etc.), which use arguments from those fields to support the position of the Church (and, later, of Golden Dawn). Through various combinations of history, biology, psychology, sociology and legal science, the values promoted by the Helleno-Orthodox Church are re-positioned on a new base of not only moral but also scientific superiority. [200]

The Parliamentary right and far-right transfused the these discourses into the parliamentary discussions, using the merging of nation and Orthodoxy as the backbone of its nationalist rhetorics (Stavrakakis 2003: 165-166). Accordingly, the main opposition to the bill on gender identity was organised within the Parliament around a defense of Greek national identity as it has been constructed throughout modern Greek history based on the emotionally invested triptych of "motherland-

[200] Examples of such events include one-day conferences and speeches such as "Gendered Identities as teaching material for our children" (Giorgos Papadopoulos 2017); "From the deconstruction of the biological sex of teenagers to the manipulation of a will-less society" (Trapeza Ideon 2017); "Helleno-Orthodox education or atheist lessons?" (Iera Mitropolis Thessalonikis 2017); "Gender Identity: An interdisciplinary approach" (Acheloos Tileorasi 2017).

religion-family" (*patris-thriskeia-oikogeneia*) (Gazi 2013). Note how this is mirrored in the discussion of the gender identity bill:

> *No matter how many laws you vote in, you know none of what you bring is normal. You are trying to destroy the holy triptych of "motherland-religion-family," but because God has done a good job, he created man and woman and is the only one all-powerful in the face of the Earth, no matter what you do, you will fail (Golden Dawn MP Panayiotaros, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes 348, my translation).*
>
> *Golden Dawn fanatically, with perfect awareness of its place and responsibility towards the Greek people, votes against the new-age acrobatisms of the coalition government, who, by such bills, dynamites the foundations of the Greek nation; foundations to which we pledge absolute adherence; they are the pillars of our national life and are expressed specifically in the triptych: motherland-religion-family. This is what has supported us for thousands of years and we shall not renounce this in favor of no fixation (ιδεοληψία) or adaptation to the new-world-order European Union. Above God, our motherland and our familia (φαμίλια), we, the nationalists, will put no European Court - of supposed - Human Rights. (…) Ladies and gentlemen family means man and woman. Family means union with the holy mystery of matrimony, which stands for the majority of the Greek people. End of story. Anything else is anti-natural, stupid and most of all anti-national (Golden Dawn MP Pappas, Hellenic Parliament 17th Term, Plenary C, 7th Meeting Minutes 201-202, my translation)*

As this set of values has been constructed throughout the decades,[201] the positioning of traditional family values at the core of national identity translates into a tight weaving of specific sexual and gender norms in the epicentre of modern

[201] The inseparable triplet of "motherland-religion-family" along with the motto "Greece of Christian Greeks" were adopted by the colonel dictatorship (1967-1974), whose amalgamation of religio-militaristic nationalism still echoes in the current political debates (Fokas 2006: 45-46; Makrides 2010; Papastathis 2015; Roudometof 2011: 98).

Greek political culture. In this vein, national(ist) politics, Orthodox tradition and heteronormative gender/sexual imperatives constitute communicating vessels both ideologically and institutionally (Canakis 2013; Chalkidou 2018).[202] This is precisely the schema activated against any practice or identity, which deviates from traditional family (thus, heterosexual) values and becomes a danger for the nation or even for Helleno-Christian civilisation as a whole (Apostolidou 2014).

Another way of connecting nationalist ideology with gender-normative heterosexuality in both Golden Dawn's and the OCG's discourse was the notorious concept of the "demographic problem" (Golden Dawn MP Panayiotaros, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 347). The "demographic problem" - meaning the low birth rate and high percentage of abortions, which initiated an intense debate during the 1990 - as a national threat has proven a privileged site for the encounter of Greek nationalism, Orthodoxy and the (heterosexual nuclear) family (Halkias 2004; Athanasiou 2007).

Alexandra Halkias (2004), studying the intersections of sex, abortion and nationalism in Greece, points out the centrality of national ideology in the construction of Greek heterosexuality (Halkias 2004). The "demographic problem", thus, becomes a synonym for "legitimate" concerns over bodies, genders and sexualities which are thought traitorous and harmful for both the nation and the family (Halkias 2004). Athena Athanasiou (2007) analyses the discourse concerning the "demographic problem" as a means of biopolitical regulation and discipline in modern Greece. Through the assemblage of "gender-sexuality-reproduction-kinship" the cultural legitimacy of national tropes of citizenship and humanity is normatively constituted along the inherent temporality of such national politics (Athanasiou 2007). The monumental national past becomes the background for the articulation of the ultimate political agony of the nation's endangered future (Athanasiou 2007: 82). In this political imperative of national futurity, non-

[202] Although I examine the OCG discourse in particular here there are similarities with other official Churches and their reaction to trans identities (e.g. McElwee 2019). Nonetheless, every creed has very specific legacies and traditions, even on a national level, and should thus be studied accordingly.

reproductive bodies become not only unnatural but also morally questionable members of the Greek family and nation due to their unpatriotic negation to procreate (Apostolidou 2014: 240).

In the case of the discussed legislation, this tied in with the overarching futurity that marked the entire debate. Firstly, the unfortunate choice of the government to legislate in the same text the recognition of legal gender identity and the institution of the national mechanism for the rights of the children contributed to such an effect from the start. Although it is common practice to include in a single legislative piece various provisions for reasons of procedural economy, the two parts of the bill were seen, by many, as competing and, specifically, the provisions about gender identity were perceived a threat to children's rights in principle.

> *In the name of protecting human rights, in the name of a so-called progressivity, you proceed to a dangerous ideological fluidisation of the biological sex of the human kind, with uncertain and incalculable consequences for the family and the parenting models and for children's rights, which, in a paradoxical manner, you come to regulate in the second part of the bill (…). This could bring fatal damage upon the fabric of society (Nea Dimokratia MP Panayiotopoulos as rapporteur, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 322, my translation).*

Lee Edelman has problematised the figure of the child as "the perpetual horizon of every acknowledged politics, the fantasmatic beneficiary of every political intervention" (Edelman 2004: 3). Indeed, the child, as a metonymy of the future, was depicted as the victim *par excellence* of the moral undoing achieved by the law regulating gender identity.

> *With these bills you strike the core of the family, the pillar of our nation. It is very convenient for you having degenerate youths, who supposedly have a problem with their own gender. They cannot revolt, they cannot keep their head up high to see the superior ideals of Hellenism, of the nation, of our race. You have pushed these children - because I will say it again,*

> *nature needs no corrections - with the role models you have given them through television, to want, supposedly, to change sex. These individuals, hence, cannot defend our motherland. Is this how you will solve the demographic [problem]? Of course not (Golden Dawn MP Iliopoulos, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 381, my translation).*

The discussions within the parliament revolved around the figure of the child in more than one way. The most prominent was the issue of the age limit, which, along with the removal of the mental health diagnosis, became the red line for many MPs who voted against this article (Hellenic Parliament 17th Term, Plenary C, 7th Meeting Minutes). If this debate was in any case bound to have a tint of the "reproductive futurity" (Edelman 2004) protecting non-heteronormative practices, the discussion concerning the age limit for legal gender amendment and its reduction to the age of fifteen amplified this aspect to the superlative.

The media produced one spectacular title after another about "changing sex[203] at the age of 15", leading a moral panic with the contribution of the OCG and other socio-political actors (Galanou 2017).[204] In addition to this, which brought the protection of the child to the centre of most speeches, a variety of scenarios was entertained during the discussions, with a special emphasis on parenting issues.

> *Let us take the scenario wherein someone has children and proceeds to change sex. How can the rights and responsibilities of parental care be secured with regards to this person, [or the] mental health of the child, which suddenly might see one of its parents proceeding to a sex change? How is the emotional world of a child affected by such a cosmogonic*

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[203] Note that, as it becomes obvious in the excerpts, the hostile discourses towards the bill make use of the term "sex change," thus, insidiously reframing the issue to imply that surgical intervention can be accessed "with just an application" by minors, while what was discussed was the possibility to amendment their documents.

[204] In light of the discussion for lowering age limit for applying for legal gender amendment, another resolution of the Holy Synod came to demand the complete withdrawal of the bill (Karamanou 2017).

> *change? Maybe there should have been a provision that exempts people who have children and want to change sex. What about children's rights, as you are concerned with human rights, whose safety networks will suddenly collapse as well as the stability of the roles with whom they will have been raised and bred? We suggest that the bill on gender identity should be withdrawn (Enosi Kentroon MP Kavadellas, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 380, my translation).*

That is, children were not considered to be endangered only by the low age limit, which supposedly allows them to assume catastrophically wrong decisions but also by the proximity to a trans parent.[205] These scenarios of "danger" for children were complementary to the broader perceived effects of recognition of gender identity such as the promotion of wrong (meaning non-heteronormative) role-models, the destruction of national values and, of course, the deconstruction of the family.

> *(…) we say a big "no" to this abomination and we call the Greek people to stand with us in this struggle. It is the greatest right of children to be raised and to develop in a normal family and, in their turn, to become parents and to raise normal children. Pseudo-progressivists and supposed democrats: hands off the children, hands off the institutions and values of our nation! (Golden Dawn party leader Michaloliakos, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minute: 357, my translation).*

As seen above, the protection of not only children themselves but also the figure of the Child as the nation's future and endangered sovereignty is perceived as the opposite of non-heteronormative life and its legitimisation.[206] The interplay between child and family, family and nation and, subsequently, child and nation is

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[205] Not just a biological parent, but also by "same-sex couples" that will supposedly use this law to present as heterosexual and adopt children.

[206] Returning to Edelman's argument this is not uncommon as he notes:

> We encounter this image on every side as the lives, the speech, and the freedoms of adults face constant threat of legal curtailment out of deference to imaginary Children whose futures, as if they were permitted to have them except as they consist in the prospect of passing them on to Children of their own, are construed as endangered by the social disease as which queer sexualities register (Edelman 2004: 19).

emblematic in these discourses. Equally clear is the affinity between nature, morality and ideas of national belonging. These excerpts exemplify the structural intersection of gender/sexuality politics and the (Helleno-Orthodox) nation-under-threat, which, in turn, as I will suggest next, requires and enables racist, and xenophobic, as well as anti-migrant imperatives.

ii. Defending All Borders

As seen in the previous section, the opposition towards the bill drew from discussions concerning the "decay" of gender and family values. Athena Athanasiou noted in 2012 the centrality, in the face of the crisis, "of the familial bond as a pillar of the national body, or, in the cases of racist discourses, as the guardian of racial purity" (Athanasiou 2012: 30, my translation). Indeed, as seen in the following excerpts, the opposition to the bill connected the debate on gender and sexual non-conformity with broader debates concerning the safeguarding of national sovereignty and ethno-religious homogeneity.

> *In a society, thus, that is being demolished, how selfish and devastating is it to lose everything, to lose our relationship with religion, with our Orthodoxy, to have individuals saying "I might have been born a man but I would like to be a woman" or the contrary and in turn have us saying that their body belongs to them and they can do with it as they will. Imagine the kind of psychological disorder these people have that they don't want to be the sex that nature gave them. Imagine this person, who cares about nothing other than - to say it in a pedestrian way - doing their own thing. What is he going to defend in his life from now on? Will he defend principles, values, ideals? But he cares about nothing. Not even the sex he was born with. Is it possible to be interested in other ideals? To be interested in the common interest? Is it possible to be interested in the homeland and the nation? Of course not! (Golden Dawn MP Lagos, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 339, my translation).*

In the majority of the Golden Dawn representatives' speeches, the issue of gender identity was seen as connected through a direct line with the "threat" of migration and the controversial issue of building an official mosque in Athens (Hellenic Parliament 17th Term, Plenary C, 6th and 7th Meeting Minutes).

> *It is you who voted along with Nea Dimokratia and the rest of the parties of the "constitutional arch," as you claim, the naturalisation of anyone who comes into our motherland, you voted for the mosques, you voted for the co-habitation contracts, you voted, you voted and today again you are voting regardless of the shouting and bickering among you. (Golden Dawn MP Panayiotaros, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 347, my translation).*

It is worth noting that, in the same legislative process, a contested amendment was discussed, concerning the status of state recognised unions. This amendment came to regulate the legal impasses created by the outlawing by Greek courts of specific national minority unions (such as the Turkish Union of Xanthi) as a threat to public order; a practice for which Greece, in 2008, was found by the European Court of Human Rights to be in violation of Article 11 (freedom of assembly and association) and Article 6 § 1 (right to a fair hearing within a reasonable time) of the European Convention on Human Rights (*Tourkiki Enosi Xanthis and others vs Greece*). The provision that was included in Law 4491/2017 (art. 29 & 30) could potentially allow the re-legalisation of this union as well as other minorities' unions. As many others, Ilias Kasidiaris, one of Golden Dawn's most prominent MPs and press representative of the party with a notorious legacy of street violence, connected these points, mapping out the threat towards the nation as such:

> *Hellas, therefore, is under attack today. It is under attack because it has committed the crime of being 98% homogenous on a national and religious basis. In this state we are homogenous, we are 98% Greek and Orthodox*

> *Christian.*[207] *They strike, then, Hellenism, through the illegal pro-memorandum governments, on its three pillars: motherland, religion and family. The motherland is driven to a high level of corruption, ethno-racial corruption, through the flood of illegal immigrants in favor of which you also legislate illegal laws on the grounds of the anti-racist law. (…) In addition, motherland is under attack on a territorial level. The composition of today's disgraceful ethno-traitorous amendment, which aims to obstruct the fair, scientifically and legally sound rulings of Areios Pagos [the Greek superior administrative court] that ban the illegal action of Turk-unions (τουρκοενώσεων) on Greek ground, has one concrete aim: the fall (άλωση) of Hellenism, the fall of motherland on a territorial level.*
>
> *(…) Other than the motherland, religion is clearly also under attack. All the parties came together to vote for the creation of an Islamic mosque.*
>
> *(…) Of course, the Greek family is under attack through the notorious [same-sex] co-habitation contract (Golden Dawn MP Kasidiaris, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 352, my translation).*

The inclusion of the so-called "union of Xanthi amendment" in the body of this law became an ideal occasion to draw direct connections between the disruption of traditional gender/family values and the invasion of national borders through the enforcement of anti-Turkish/islamophobic/anti-migrant rhetorics. Those who have discounted natural bodily frontiers contribute to the dissolution of moral values and circle back to a physical incapacity to protect the state's actual borders.

Last, following the rationale of the OCG, this synthetic anti-trans discourse, which combines the legal with the moral and the dogmatic with the political, was used to lead to a final imperative expressed as a dramatic call for resistance. The discourses of Golden Dawn and the OCG moved parallel, touching upon common points only

[207] The meticulously planned sameness of the population of the modern Greek State has been thoroughly naturalised in the Greek nation's self-narration, thus, intensifying the connection between Orthodoxy and national identity (Stavrakakis 2003; Rasku 2007).

to converge in a populist summoning for transforming their rhetoric into action through the political vehicle of resistance. Resistance as a national form of action is deeply embedded in the Greek political discourse and is used to appeal to a patriotic resilient spirit, both right-wing, nationalist and left-wing, anti-capitalist (Kyparissis 2016: 94). This Greek "heroic" spirit of resistance supposedly remains combative from the Ottoman period, throughout the Balkan wars, the German occupation, and the colonel junta and reaches its way to modern Greece and the European "occupation" of the IMF.

Such a romantic notion of national and cultural resistance is adopted by discourses across the political spectrum as a response to Western and European financial and cultural "invasion".[208] Michalis Kyparissis (2016) analyses the invocation of historical tales of national betrayal and struggle in the public discourse about the Greek crisis and suggests the centrality of resistance as a concept in the current political debates. It seems that every time national and gender betrayals threaten the ethnically, culturally, sexually and morally pure body of the nation, resistance is marked not only as a duty and an expectation but also as a kind of inter-temporal fate that forges the Greek national identity (Kyparissis 2016). Golden Dawn eagerly picked up this line of political rhetoric:

> *There is also, of course, a very important point on which we need to insist and this is no other than the mobilisation of the Church, no other from the words of the monks of the Holy Mountain (Αγιορείτες),[209] who called upon*

[208] The saga of cultural invasion as a national threat has intensified during the last years in the midst of financial recession, the IMF intervention and the arrival of thousands of migrants through mostly the Aegean Sea borders favoring patriotic narratives of resistance (Kyparissis 2016). Within the anti-trans mobilisation of the OCG, the concept of resistance ran across and connected the various forms of reaction, translating the ideological schemata outlined above into action. Whether it is legal activism of OCG representatives, individual engagement (such as participation in public events), the refusal to abide to state policies and legislation or other symbolic acts (such as funeral bell tolling after LGBT legislation is passed), the proposed response was a "calm resistance" to (post)modernist social values (Holy Metropolis of Corfu).

[209] Article 105 of the Greek Constitution legally recognises the entire peninsula of Mount Athos (called *Aghion Oros*, which means Holy Mountain) in North Greece as a self-governed part of the Greek State. This autonomous polity consists of 20 sovereign monasteries under the rule of the Ecumenical Patriarch of Constantinople and is populated by monks, clergy and periodical visitors, which all have acquired a special permission before entering the peninsula (Statutory Instrument

> *us to resist. And we will abide by this summoning, we will abide by their exhortation and we will resist, because, as the Holy Mountain monks, the sacred community of the Holy Mountain, rightfully said, if we do not resist today that Greece is under attack then our ancestors will rise from their graves (Golden Dawn MP Kasidiaris, Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 352, my translation).*

The invocation of the concept of resistance not only served to re-inscribe the word of the OCG in the heart of the parliamentary debates but was also used broadly by Golden Dawn to proclaim itself as a power of "national resistance"[210] (Hellenic Parliament 17th Term, Plenary C, 6th Meeting Minutes: 326, 341, 356).

Using vocabulary and metaphors that draw parallels between the present and highly symbolic moments in national history, the introduction of the bill (among other "traitorous" legislative pieces as we saw earlier) was niched as another attempt against Helleno-Orthodoxy. Such tales of treason and heroic resistance carry at every step of their formation/synthesis/reproduction, gender and sexual connotations which establish heterosexual masculinity as the only potential position of bravery - and, thus, resistance - against national threats (Kyparissis 2016). Gender and sexual deviance on the other side become a condition in opposition to which the *prima materia* of patriotic sentiment is constituted and realised through the act of resistance.[211] Within such accounts, it is often the

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10/1926). Among other provisions of the Statutory Charter of Aghion Oros, the most well-known and strictly applied one is the prohibition of "any living female" to enter the entire peninsula, a crime punished with imprisonment from 2 months to a year. This rule is known in Greek as *avaton* and remains active regardless of the European Parliament's declaration that it violates international conventions on gender equality and non-discrimination on the basis of gender as well as the provisions relating to free movement of persons within the EU (European Parliament Report 2002, para 90).

[210] This is a politically dense term that traditionally is used to describe the armed struggle during WWII and is mostly affiliated with Greek Communist and other left-wing guerrilla groups that fought against German, Italian, Bulgarian and later British forces.

[211] Chalkidou (2013) explores sexual (ab)normality -and specifically BDSM practices- as a metaphor used in the Greek crisis discourse to refer to the (political, financial, ideological) threats against the nation's sovereignty and dignity. Relating sexual perversity with political perversity, this discourse, formulates an intense depiction of sexual nationalism, which carries an abundance of historico-political layers of meaning (Chalkidou 2013).

concept of resistance that becomes the discursive vehicle, through which the national subject is narrated into existence: honest, brave and always already gendered.

Overall, it has been showcased in this section that the main pillars of Greek national(ist) identity (that is, motherland-religion-family) served as the main axis around which anti-trans discourses were organised. Imperatives of national belonging and state sovereignty entangled with religious canons and ethics of reproductive futurity, creating an eruptive alloy of ethno-sexual morals meant to be secured by all means necessary. Greek nationalist discourses have been analysed in this section of the chapter as a heavily gendered terrain, focused on the need to defend the nation-under-threat or the Child as a metonymy of the nation's future, by defending the gender and sexual status quo.

Nonetheless, unfortunately, this set of polemic discourses within the parliamentary discussions constitutes only one part of the public anti-trans discourse during that era. The entirety of the reaction included a vast reproduction of anti-trans sentiment in the media, social media, internet platforms and other fora. In this light, as was established earlier in the chapter, the communicational management of the bill should be considered as a political choice in itself, which, as partially shown in the present section, exposed trans individuals to immense transphobic discourse-production. The last section of the chapter opens up for discussion this frame of erupting visibility and its effects on different levels.

9.3.a. In the Spotlight

Given the prior shift in judicial practice, which enabled gender identity recognition without genital surgeries since 2016, and the central disadvantages of Law 4491/2017, the legal changes brought by this law, although significant, were less spectacular than the echo of the introduced legislation in the media and political discussions. This section looks at this conflicting outcome of the publicity of the debate as it was discussed by my interlocutors and its connection with government-level political projects.

As noted earlier, the term “gender identity” became, overnight, a buzzword in the media and political discussions that lasted several weeks. Media, internet platforms and newspapers were flooded by articles, interviews and discussions on the issue. This sudden and accelerated visibility was described by my interlocutors with mixed feelings. On one hand, it was marked as a turning point for a new kind of acknowledgement of trans existence within Greek society.

> *Me: (…) it’s not just that the debate took place in public but it was basically front page news every day for a while…*
>
> *Hector: Do you know what man, I kind of…how can I say this, that was the main reason that I was happy about this whole thing. The fact that there was all this publicity and it was discussed, that…you know…there is…there are trans people everywhere! ((he laughs)) That was…yeah…amazing.*
>
> *Me: So you were into all this publicity of the issue.*
>
> *Hector: Hell yeah! Definitely. [Interview with Hector in 2017].*

More than a legal victory, the introduction of Law 4491/2017 is marked here as a paradigm-shift on the issue of social visibility.

Nonetheless, the eruption of trans-related discussions in the public sphere also translated into a variety of anti-trans discourses and imagery, which ranged from anonymous internet comments up to statements of public figures and, as seen in the previous section, parliamentarians and other institutional representatives (Galanou 2017; GTSA 2017b). In this sense, the antipode of what Hector describes, was a feeling of being exposed by this sudden hyper-visibility to an intensified transphobia and unwanted scrutiny. For example, although Lola made clear in our discussion that she considered the bill itself as a significant legal asset for trans lives, at the same time, she had serious objections to some of the political and communicational aspects:

> *Lola: Also, another thing that I have been discussing about and I wanted to say is that in the days when the bill was being discussed, any of us who*

were passing, basically stopped passing. That is…I remember people talking about it on the street, I remember people talking to me in the area where I work…people who hadn't talked to me before coming up to ask me if it was me on the news last night and I would say that it wasn't me and they would be like "it was you and good job for telling it like it is." I remember people's looks changing and I remember seeing both more supportive looks and more hostile looks. That is, I remember that the days of these discussions whatever feeling people had, it was underlined in a way with their attitude, with the excuse that now we are talking about this daily.

Me: So this public debate, what did it bring…

Lola: The thing about the public debate is that it brought an immense trans visibility in the media...

Me: What do you think about that?

Lola: I personally did not like it, I never like this. (...) Because I felt more pressure and I already feel enough pressure as a trans woman goes around, uses public transportation, works...goes around, you know, to the supermarket, for a coffee. (...) I didn't like this trans...I didn't want it, I didn't need in these days such an underlining. (...) and, look, the fact that the average person is talking about this is not necessarily a good thing and anyway...this incredible unconditional trans visibility never agreed with me. (...) So the bill itself I found it very positive for all of us, but its management by SYRIZA and everyone was tragic [Interview with Lola in 2017].

Valeria had her own concerns about the communicational management of the new legislation:

Me: Did you follow the issue of the bill in the news?

Valeria: I did, through the internet. Well I am under the impression, I believe….well I am not very knowledgeable about these things but I don't think it was voted in because…well, it's not that SYRIZA suddenly said

"oooohhh…those poor trans women, what are they going through." It's not that it just dawned on them now and they said that. I think it's some kind of European thing that Greece has to vote in or maybe it will be fined or something. Maybe not fined, but you get what I mean. (...) Although to be honest they did talk about how gender identity makes things difficult in social interaction and finding a house, a job etc.…they did say that. I followed this.

Me: Did you also follow it in the parliament and such?

Valeria: I did! I went online and saw! Golden Dawn had objections ((she laughs)).

Me: Yes, what did you think of all that?

Valeria: Well…ehm…I felt tremendous…anger. I was angry…and most of all, I think I was more saddened than angry…because it was…you know they were threatening people's lives? People wrote many things online, they compared it to pedophilia, to bestiality, they said it's a mental illness…and all the comments under the articles were…abusive. And it wasn't one, it was hundreds. (…)

Me: Don't you think it helped that it was first thing in the news all this time?

Valeria: No, look…I believe first of all that they all wanted to sell. They sold it as a new thing. I believe that they sold in a manner that was abusive. And after they bombarded us with the bill (…) after, that is, they dropped the bomb of gender identity then they started picking up stories…this person that changed to that, this trans model etc. I mean they reproduced it in every possible way towards any direction just so that it won't die away. (…) It was set up like that on purpose, you know, suddenly like a bubble that already…it's over. Simply over. We went through all this abuse for a couple of weeks - they even made memes! - people heard all the wrong things (…)

> *that their kids will be snatched and turn to demons…turned trans. (…) No, I think there should have been some preparation. (…) I was extremely upset, yes…*
>
> *Me: Didn't you feel like "here it is, they are finally talking about this."*
>
> *Valeria: I did feel it…wait, no, what I felt was that no matter what…the bill passed you jerks! You can drop dead, say whatever…yes. But when I think how many people think like that, like "the perverts, the circus freaks…" it's very upsetting. [Interview with Valeria 2017].*

As seen in both excerpts, visibility *per se* was not experienced as solely positive or desirable but pertained to conflicting affective and practical components. At the same time, the lack of significant preparation and engagement before-hand on part of the governing parties in combination with the communicational and political exploitation of the issue created an explosive set of hostile discourses and increased scrutiny.

Moreover, Valeria hints here towards a critical understanding of the political work performed by such legislation. That is, her suspicion towards the reasons that motivated the government to legislate on such a controversial issue encourages us, as in previous chapters, to think about the implicit connections between the introduction of LGBTI-related legislation and different state projects. Although Valeria brings up the connection of such legislative pieces with Europeanisation processes, which has deep roots, as established in my analysis in previous chapters, I suggest that the fast changing political landscape of the era adds new nuances to such governmental initiatives. Unlike what was described in the previous chapter, in this case, the political imperatives of this legislation do not sit oddly within the official platform of the government introducing it. Therefore, I suggest that it is the communicational exploitation of the endeavor and not the legislation itself that can be seen to perform its own work on a government level.

Taking into account the context in which Law 4491/2017 was introduced, it can be considered as part of the government's effort to retain its left-wing and progressive

profile. That is, although having been elected mainly on the grounds of its anti-austerity ("anti-memorandum") agenda, SYRIZA embraced the language and practices of austerity as the only possibility and, interestingly, proved "more resilient in implementing austerity even in areas that all previous authorities avoided or miserably failed" (Roufos 2018: 156). The implementation of austerity politics and the fact that SYRIZA collaborated with a traditionalist right-wing party (ANEL) to form a government coalition brought about a wide disillusionment in the left-wing electoral base (Carastathis 2018c; Roufos 2018). The political identity-crisis caused by this shift called for the establishment of a new terrain that would allow SYRIZA to reinforce its differentiation from the "pro-memorandum" parties. Carastathis (2018c) accurately suggests that migration politics constituted momentarily this terrain:

> *In this context, as the 'refugee crisis' is declared throughout Europe in the summer of 2015, and in Greece resistance to austerity politics falters behind Tsipras' inglorious capitulation, migration politics becomes an index for what is left, or for what is left of the left. Indeed, Tsipras and his supporters increasingly use his government's approach to migration to differentiate SYRIZA from the centrist and right-wing pro-austerity parties with which it has, now, much in common (Carastathis 2018c: 144).*

Regardless of the government's promises concerning the abolition or improvement of anti-migrant policies and practices, "these promises went unfulfilled and the country's detention capacity increased markedly under SYRIZA leadership" (Carastathis 2018c: 144). Although I will not analyse the "refugee crisis'" management under the SYRIZA-ANEL regime, I suggest that the loss of this traditionally privileged-for-the-left political terrain embedded the spectacular introduction of sexual minority rights with a different weight.

From the beginning of the SYRIZA-ANEL administration, the LGBT-related legislation proved to be one of the few fronts wherein the government fulfilled, to some extent, its promises. Having reneged on almost of all its pre-election commitments and with its pro-migrant and anti-memorandum profile shattered, the government

was invested in such gestures in order to recuperate part of its ideological characteristics in the public eye. Indeed, the framing of LGBTI+ and other minority rights as counterweight to devastating fiscal and social policies can be traced within governmental discourses. Minister of Finance, E. Tsakalotos, wrote in a much-discussed article:

> *This is a purely liberal bill, for those who desire the reassignment of their gender. Moreover, it is one of those bills, which prove that the government can manage the memorandum, while, at the same time, leaving a progressive imprint (Tsakalotos 08.10.2017, kathimerini.gr).*

In this vein, in a moment of deepening austerity and general disillusion with the shift in SYRIZA's political imperatives, sexual minority rights functioned as "an index of the radicality and progressiveness" of the government's politics (Under Secretary of Internal Affairs Y. Balafas quoted in Kostopoulou 2015).

Through this prism, it becomes clear why a legislative change with such backlash and political cost became the forefront of a communicational strategy. In the face of the complete shift of the government's stance, sexual minority rights legislation was used as a means to re-connect the government with its left-wing base. Specifically, the gesture of dropping "the gender identity bomb" within this hostile political climate might have favoured SYRIZA and other parties' efforts to present themselves as progressive and humanitarian forces in contrast to the solid Helleno-Orthodox nationalist front.[212] Nevertheless, as discussed above, this gesture of sudden hyper-visibility not only exposed trans communities to a renewed kind of transphobia in the public discourse, but also intensified the daily scrutiny of trans bodies.

[212] It would also be interesting to discuss the discourses in favor of gender identity recognition and the new modes of Greekness that emerge and gravitate towards European models of defending sexual minorities from traditionalist societies. This becomes possible only by welcoming LGBTI+ issues on the mainstream political agenda and finding a new national pride enabled by them. Such a shift is very new and of little political clout in Greece but rapidly evolving as seen by the increased embracement of LGBTI+ issues by major political institutions.

As has been established in this section, the communicational endeavour of the government to centralise in the public eye the introduction of Law 4491/2017 has left a conflicting legacy. The increased visibility that the publicity surrounding the legislation brought was experienced by some as an empowering instance of social recognition but by others as an (unnecessary) exposure to a variety of hostile discourses. Nonetheless, I have suggested that the hyper-visibility of the introduction of sexual minority rights was central in the government project of recuperating a wounded left-wing appeal - an appeal that had been damaged by the very policies that worsen the life-conditions of vulnerable populations such as often are the beneficiaries-to-be of trans-related legislation.

Overall, as established in this chapter, the encounter between emerging modes of institutional LGBTI+ politics and political apparatuses of both the left and the right in Greece constitutes an evolving field of political contestation. The coming years will require new analytical tools in order to engage with the outcome of this encounter on the socio-political and legal terrain. As the cards of political power are currently reshuffling once again with right-wing Nea Dimokratia back in power, the direction of this critique will largely depend on the coming political developments and their effect on trans politics and legislation.

Closing Part C

The third and last part of the thesis is concluded here having offered a critical appraisal of contemporary trans-related legislation in the Greek legal order. In alignment with one of the main premises of the present thesis, this part underscored the connection of trans-related legislation with other, often seemingly irrelevant, state projects, as well as the influence of informal practices in the manner this legislation translates into reality. As it was anticipated in the introduction chapter, this constitutes the second part of the twofold contribution of the thesis. That is, a context-specific appraisal of these pieces of legislation in relation to the workings each one performed on a state-level and on a ground level.

Anti-discrimination in employment (chapter seven) was discussed in parallel with processes of Europeanisation through fiscal and political routes and the self-narration of the Greek state as European. In this vein, the import of this legislation from the European legal order was demystified and its understanding as a "success" was juxtaposed with the narratives that depict the conditioning of trans employability as an impossibility. Continuing, anti-racist legislation (chapter eight) was situated within the obscure context of right-wing governance of the Crisis era and its investment in the targeting of the nation's racial, sexual and gendered Others. In this context, the anti-racist legislation performed a mainly symbolic function on the ground while, on a broader level, it contributed crucially to the re-naming and legitimation of government and European practices as non-racist, non-discriminatory and non-violent. Finally, chapter nine reads the new legislation on gender identity recognition within the context of a left-wing government that, having retreated from its original positions on all other issues, was largely invested in the introduction of legislation that can be marked as "progressive." Hence, the over-the-top publicity of the whole endeavor, which nonetheless was an important legal shift, unnecessarily exposed trans people to a variety of hostile discourses as became evident in the analysis of the parliamentary opposition to the bill.

Overall, the tempo of this part of the thesis included a continuing interplay between the micro and the macro, ground-level and state-level, government

politics and individual agency. This way, the appraisal of the legislation in hand is informed by trans experience but also remains aware of the broader political goals served by granted rights within a specific context. None of the legislation pieces discussed is celebrated or rejected in principle. Instead, by weaving a complex critique that includes positive and negative aspects simultaneously, this analysis can account for the complexity of rights politics, the conflicting outcome of supposedly progressive legislation, the bittersweet taste of such legal "successes" and the ambivalence in my interlocutors' narratives. The next and last chapter of the thesis is an epilogue that brings together all these threads of critique, re-articulates them as a whole, and attempts to suggest ways to negotiate them without leaving anything and anyone behind.

Chapter 10. Conclusion

The departing point of this study has been a desire to critically interrogate the ways in which the Greek state has managed legal issues of gender variance and, more specifically, trans legal issues. This question proved to be rather complex or, more precisely, it unfolded into a constellation of questions and problematics, thus resulting in a variety of partial inquiries. This epilogue brings together all these partial inquiries that have been visited throughout my analysis, as well as the main arguments they lead to. Following this, a set of suggestions that have organically emerged in the course of the text is compiled, thus utilising the rationale of the thesis in order to think about the issues discussed along and from within this specific context.

The main premise of the thesis, which connects the different threads of analyses within it, is that the legal management of gender (and sexual) variance by the state does not follow a strict, coherent and pre-determined set of principles that is merely codified in the word of the legislator. What is argued is that the legal management of gender identity by the state adheres, on a macro level, to different state-level or larger transnational political projects while, on a ground level, it is materialised through patterns of bureaucratic informality, improvised protocols and individual survival strategies. Hence, the main understanding underpinning the text is that a critical appraisal of any LGBTI-related legislation needs to rely on an analysis that includes both these aspects within a broader insistence on complexity and of context-specificity. Otherwise it remains a hollow engagement with the surface of legislative texts that might have very little to do with their effects or their actual purposes.

To that end, the main contribution of the present thesis lays in the utilisation of this point in order to produce such an analysis regarding gender variance and trans issues within the Greek legal order. That is, an analysis that embeds this debate within a critical historical depth and draws connections with parallel political processes, as well as the lived experience of trans legal issues. In this vein, I focused

less on the declared intention of the legislator and more on the workings of trans-related legislation in the historico-political context it is situated in.

Overall, the present study employed elements, tools and analytical gestures from various fields in keeping with the complexity of the issues it touched upon. Accordingly, it presented an original piece of research that can be of value to readers and scholars across different fields, especially in the intersections of Socio-Legal studies, Trans Studies and Political Science. In this sense, the contribution of this thesis -that is, the critical genealogy of legal gender classification in Greece and the multilevel appraisal of the contemporary legislation on gender identity- goes further than laying the groundwork for emerging Trans studies in Greece. It also showcases how essential the interdisciplinary character of such endeavors might be for the production of meaningful knowledge.

Such interdisciplinarity lays in the heart of critical epistemologies and their tendency to exceed strict disciplinary boundaries in order to allow synthetic approaches that can better hold our complex and nuanced realities. Specifically, the present study was grafted with elements of Queer, LGBT and Feminist research and theory and could claim space both in Socio-Legal and/or Critical Legal Studies. Moreover, it undertook both the task of *doing* Legal History and the task of attempting a contemporary legal critique informed by empirical elements and following analytical pathways found in the fields of Political Philosophy and Political Science. Last, the interdisciplinary character of the study was also accentuated by the participation in debates positioned within overlapping fields of regional studies, such as the fields of Balkan, South-East European and Modern Greek Studies. In this disciplinary environment it offered a take on how the work performed by LGBT rights can be read in relation to European integration discourses, Balkan nationalisms and austerity politics. More specifically, over the preceding parts, my analysis unfolded as follows.

Part A builds the conceptual backbone of the text and presents its methodological path. It offers a review of the emergence of trans studies and its contested

relationship with queer theories, opting to align with writers who suggest that framework-multiplicity and polyvocality are necessary in trans theorising. Moreover, it positions from the very beginning the aspect of context-specificity at the core of the approach to the thesis by discussing the problematics of assuming a universalised and linear narrative of progress concerning gender and sexual politics, practices and legislation.

Following that, Part A proceeds to engage with theories and concepts regarding the management of gender variance by the legislator and the modern state. Discussing some of the debates that have taken place regarding trans rights, the present research adopts the stance that dictates a complex appraisal of rights in their context instead of an overall acceptance or rejection of them in principle. Nonetheless, preceding gender identity or trans rights as concepts, gender variance was discussed in legal fields mainly in relation to sex classification and in dialogue with medical authorities. For this reason, in Part A, by combining analyses of modern state-standardisation processes (specifically civil registration) and critiques of classical theories of categorisation and interpretation, I tease out the relationship such processes have to gender-normative categories and to their legal constitution through medico-legal taxonomies.

Last, in the final chapter of Part A I give a detailed account of the methodological setup of the thesis. The sources, the methods of research and analysis, as well as my own position in relation to the research are discussed within a feminist epistemological framework that dictates processes of accountable knowledge production. Archival material from the twentieth century, a variety of contemporary texts (laws, case-law, parliamentary minutes, press releases etc.) and a set of semi-structured interviews are combined, each serving different purposes and utilised accordingly. Overall, Part A presents the theoretical, epistemological and methodological environment of the thesis and familiarises the reader with the theories, concepts and routes that will be used in Parts B and C that discuss gender variance and trans issues in the Greek legal order.

Initially, in order to engage with contemporary notions of gender identity in the law and trans issues specifically, it was crucial to acquire an in-depth understanding of the historicity of gender variance issues in the Greek legal order. Nonetheless, looking at recent engagements of legal scholarship with trans issues, I argue that their approach to the historicity of gender identity in the Greek legal order often lacks in complexity. That is, it tends to side-step past encounters of gender variance with the law that do not fit into the progressivist narrative of a linear succession of legal concepts. In a sense, I had to engage with part of what Dimitris Papanikolaou has called *archive trouble* (Papanikolaou 2011; 2018a), meaning the attempt to *do* history as a way to connect with the present by taking "into account diverse temporalities and contours, survivals and moments of emergence in histories of resilience" (Papanikolaou 2018b: 52.25''). For this reason, what needed to be established was a historiographical view of the legal past that would enable an understanding of the management of legal gender and its seemingly incomprehensible motifs before the emergence of gender and sexual minority rights.

In this vein, Part B (made up of chapters five and six) composes a genealogy of a phantasmatic legal category or, rather, a genealogy of the regulatory frames that strived to re-normalise, through sex classification in the law, specific kinds of gender variance. Both chapters together, using shared methodology and sources, drew out the role of classification and interpretation, as well as the shifting frames of sex, gender and sexuality and their legal management throughout the previous century. As I showcase in chapter six, critical projects which overlook this entangled history of legal gender/sexual categories are bound to mystify or misread the way sex classification has functioned historically. Accordingly, the composed genealogy, and the individual points it makes, as well as its combination of sources, constitute an important contribution to the contemporary debate on legal gender in Greece, offering an essential complement to current legal narratives that obscure this important aspect of Greek legal history.

Specifically, by re-reading legal texts collected during research visits to the Athens Bar Association Library, as well as texts found in the digital archives of the Hellenic Police periodicals, I created my own archive of dominant legal discourses which includes a variety of connections between different gender categories and their interpretative grounding within this legal tradition. Through these texts, I explored the judicial practice concerning sex recognition and (re)classification within the Greek context, which has been defined for decades not by legislative provisions but by the (re)interpretation of already existing legal texts and case-law - a process that often manifested as the anchoring of (legal) text onto underlying norms that can either be invoked as self-evident or function as self-evident in the absence of their invocation.

Moreover, throughout these two chapters, I have offered an analysis, which actually follows the path of specificity, complexity and interconnectedness of legal gender categories. The text dives into the Civil law debate on sex classification within civil registration and, especially, the discussion of cases of "hermaphroditism" and their instrumentalisation to (re)naturalise the gender order. I have argued, based on this analysis, that the Civil law debate on legal gender during the previous century has largely ignored the existence of transsexuals and, even more so, the need to negotiate their civil status as such. Indeed, regardless of the fascination of other scientific fields with the sensational "phenomenon of transsexuality" and regardless of the social legibility of certain categories of gender variance, Civil law scholars systematically refused the substantiation of such subjectivities in law. To further ground this argument, I departed from the strict area of civil registration utilising other areas of Civil law, as well as Criminal law. Through this diversion, I depicted the familiarity of gender variant individuals of that era with legal apparatuses, police authorities and other state institutions.

Furthermore, both chapters claimed that, regardless of the engagement of Civil law scholars with sex re-classification, the subject of this process was either placed in the all-subsuming category of hermaphroditism or, more recently, evaded

recognition through the use of “the-person-who-had-a-sex-change” in place of any gender category. This way Civil law scholars managed to manoeuvre around not only the social presence of trans individuals but even around the relative debates of their fellow “men of science” in other fields, internationally and in Greece. I have suggested, that is, that the transsexual became invisible in Civil law texts, not because the authors did not “know” her/him but because they refused to acknowledge her/him. To establish this, I also provided evidence of the way foreign trans case-law was re-iterated as hermaphroditism litigation in order to be introduced into the Greek debate and to be analysed as such. This confirms my claims both about the erasure of transsexuality and about the taxonomic conflations, with significant effects, between different gender categories in the realm of Civil law. Overall, I demonstrated that the porousness between hermaphroditism, transsexuality and homosexuality gave way to seemingly paradoxical judicial practices and legal realities that often flew under the radar of legal scholars and legislators or were persistently erased by them.

In my analysis, these motifs (erasure of transsexuality and the taxonomic conflations of specific categories) were read both as a part the Civil law project to present a simplified and fully legible image of society and as a result of the ideological investment of the Greek legal order in specific ethno-sexual values. This critical reading is the thread that connects the analyses of different legislation pieces throughout the entire thesis. Specifically, it ties-in with the overarching argument in my text that legal regulation of sex/gender issues does not follow a monolithic and coherent pattern but adheres to the commands of varying state (or other institutional) projects (Currah 2014). This is the core of my approach and the main task of my thesis, that is, an attempt to attend to the different questions articulated at the beginning of the thesis through a critical reading not limited in and by the legal texts that compose the legal framework on gender variance. Instead, it is rather a reading of these texts in relation to the texts hidden behind them, the different contexts around them, the realities enabled by or regardless of

them, the workings performed by them on different levels and, finally, the ideological elements mirrored in them.

In this vein, the rest of my analysis focused on current trans-related legislation resulting in a modular part Part C consisting of three chapters that discuss three different legislative pieces. Part C, overall, exemplifies the significance and value of the connection between gender identity regulation and various state projects. Running with this argument, it offers a critical reading of the most significant trans-related legislative pieces through this lens. Legislation concerning discrimination in employment (chapter seven), racist crime (chapter eight) and the legal recognition of gender identity (chapter nine) are carefully contextualised and discussed in proximity to the state political agenda of their era.

This reading is complemented by the insights offered by a set of semi-structured interviews with trans individuals and legal professionals. Following lessons from feminist, queer and trans research, discussed in Part A, I allowed the intimate knowledge of my interlocutors on trans issues to guide my attempt "to interrogate the law as a set of imagined and actualised relationalities apart from their strict legality" (West 2013: 19). These conversations were imperative in order to analyse and make sense of all other sources used in the text, whether primary or secondary. Moving from the macro to the micro level and vice versa, such a double appraisal, on a state level and a molecular level, was the aim of all three chapters of Part C. Refusing to take the letter of the law at face value, the three chapters in this part came together to compose, at a moment of structural change, a view of the main practical, legal and political aspects of the Greek legal framework concerning gender identity.

Legislation against discrimination in matters of employment, which is discussed in chapter seven, is considered internationally one of the markers in establishing how "advanced" a country is in LGBTI+ issues and, thus, a signifier of "progress" (Puar 2013). Nonetheless, the introduction of such legislation in Greece came during an era in which LGBTI+ issues were ignored in the mainstream political debates and, also, in which multiple intersecting discriminations were accepted and normalised

on all social and institutional terrains. With this in mind, I proceeded to interrogate the workings of a provision that announces the unacceptability of discrimination on several grounds (among which gender identity) in such a context.

I suggest that these workings can only be understood in connection to a larger state project within which the adaptation of the European directives regarding equality in employment functioned as a means to achieve the Greek state's goals on a fiscal and political level. That is, the Greek state in one gesture fulfilled its international obligations in a period of conditionality regarding European funds and advanced its ideological trope of becoming a modern, meaning European, state. At the same time, no administrative or social changes that could shift the existing national paradigm of gender/sexual values were promoted. That constitutes, as mentioned earlier, a win-win scenario wherein both wins are for the Greek state. In this light, introducing a European piece of legislation only to be completely ignored by the national legal order can be understood.

Moreover, its disconnection from trans employability issues on the ground accounts for the scepticism of my interlocutors towards this legislation and its potential. Its declaratory value proved irrelevant in a context wherein normalised transphobia often prevents the premises of discrimination to even unfold. Trans activists describe a total exclusion of trans people from the employment market that functions on a fundamental level, meaning as a disadvantage concerning the distribution of life chances, such as support networks, financial stability, education etc. (Galanou 2011). Moreover, as my interlocutors suggested, such levels of normalisation of transphobia translates to a pre-emptive pause, a survival tactic of avoiding situations, such as the quest for employment, that will guarantee exposure to anti-trans practices. Overall, the adaptation of the European legislation against discrimination on the grounds of gender identity proved useful for the (re)legitimation of the Greek state as European but not for much other than that.

In a similar vein, chapter eight poses questions concerning the protection of gender identity within the frame of a new anti-racist legislation in criminal law (the Greek equivalent of hate-crime legislation), whose introduction during a particularly dark

era of governance in Greece appears paradoxical at first glance. Under the regime of crisis management by a right-wing government, which largely relied on rhetorics of national and ethno-sexual purity, the workings of the legislation against racist crime emerged as rather insidious.

Initially, the limitations of the legislation's applicability were established not only based on the institutionalised character of the violence it was set to combat but also on its atmospheric qualities. The discussions with my interlocutors offered an understanding of the hostility that sprawls across day-to-day trans experience rather than solely in the occurrence of spectacular incidents of transphobic discrimination or violence. This understanding was furthered by utilising feminist conceptualisations of gendered violence as atmospheric (Ahmed 2014; Carastathis 2018a). For trans people, reality was described as organised not only by (the threat of) transphobic violence but also by a constellation of expressions of gender and sexuality-based hostility. And although an event of explosive violence might never occur, the banalised scrutiny, aggressiveness and fetishisation make up an everyday experience that is entirely misrepresented by an approach of transphobic violence as incidental. Moreover, focusing on incidental/interpersonal violence not only does very little to undo the structural conditions that reproduce social hierarchies but also relies on institutions that are integral to the management and subjugation of marginalised groups. Admittedly, this conceptualisation of anti-trans violence and hostility as atmospheric revealed not only the limitations of the anti-racist legal framework but also its indirect effect to conceptualise whatever lies beyond concrete isolatable incidents *as* a non-violent/racist/transphobic reality.

Nonetheless, the announcement of a marginalised group as protection-worthy, even if only on a discursive level, produces an undeniable effect. In this case, the change produced by anti-racist legislation was mainly on a symbolic level since, as discussed in chapter eight, the competent authorities continue to function on their own value-system. The continuing atmospheric violence and systemic inequality combined with the symbolic weight of such legislative recognition resulted in an ambivalent engagement with this framework at ground level. Indeed, my

interlocutors struggled between an appreciation of the value of such legal protection and the simultaneous intimate knowledge of its futility. This echoes discussions explored in Part A of the thesis, concerning trans rights as they have been conceptualised in broader debates about rights politics and the neoliberal state (Duggan 2003; Beger 2011; Spade [2009] 2015). In a sense, it aligns with synthetic lines of critique that neither unproblematically embrace nor dismiss the value of trans rights but engage in complex interrogations of both the limitations and the transformative potential of rights politics (Currah 2009, 2013).

Other than the limitations of anti-racist crime legislation as such, the most pressing point that needed to be interrogated was its introduction within a context of absolute legitimation of state racism and violence. In this vein, the last section of chapter eight followed the threads of the seemingly paradoxical, at this political juncture, introduction of anti-racist legislation by the right-wing governing regime. Following Benjamin's thought on the tautological formula that legitimises legal violence (because it is legal), I suggested that both the Greek state's massive operations against the country's ethno-sexual Others and the materialisation of the European imperatives of "fortress Europe" relied heavily on the process of re-naming their own racist violence as justifiable coercion. Through a parallel reading of government documents, articles and commentary, I traced how the Greek state used a conceptualisation of Golden Dawn's practices as the sole definition of racist and overall discriminatory violence. Through this gesture of constructing an image of irrational, hate-instigated, fascist racism *as* racism, the state proceeded to re-name its own calculated institutional racism and violence *as* non-racist and non-violent. In the process of systematic ethno-sexual persecution and systemic cruelty of that era, the anti-racist legislation worked in the most insidious way against the marginalised populations it was supposedly designed to protect.

It is only within such a framework that one can come to terms with the formal protection from transphobic violence which is established simultaneously with the persecution of trans women, migrants and sex-workers. That is, by the exact same regime that arbitrarily hunted down, detained and harassed trans women "to

enhance citizens' feeling of safety and to improve the image" of certain areas in Thessaloniki and by the same regime that materialised the horrifying HIV witch-hunt against female sex-workers and substance users in Athens (Dendias quoted in TGEU 12.07.2013; Mavroudi 2013). And it is only in such a framework that my interlocutors' impasses can be appreciated in-depth and not glossed over as practical issues that require simple legislative solutions. For this precise reason, I have engaged at length with their ambivalence towards these laws. Because admittedly, this type of surge of systemic gender and racialised violence in parallel with legal "victories" demands a re-working of theoretical, as well as political critical vocabularies that allow us to make sense of such complex and contradicting realities (Papanikolaou 2018c). In this case, just a few years apart, employment anti-discrimination and anti-racist legislation have come to serve different state goals, which, in themselves, have to different extents promoted further precarisation of marginalised populations - the very same populations they allegedly protect.

The last chapter of Part C concludes the task of following the connections between different trans-related legislative pieces and the broader political projects that these laws enable. Chapter nine focuses on the most specialised of these laws, that is, Law 4491/2017 on the legal recognition of gender identity, which was introduced by the governing coalition of SYRIZA-ANEL. Before engaging with the introduction of the bill and the effects of its passing, I describe the previously existing framework for the amendment of legal gender. Given the complete lack of protocols, other than a vague provision that established the possibility of correcting a person's birth registration act in case of "sex-change," I turn to an empirically-grounded discussion of trans legal realities in Greece.

Describing the process on a practical level, I also gave space to an aspect of trans legal reality, which repeatedly emerged in discussion with my interlocutors. That is, the disproportionate level of control over the outcome of casual exchanges that lies with low-level bureaucrats of the public/private sector, especially in the case of marginalised groups. This discussion is consistent with the broader argument that

state and private systems of gender identity recognition are not materialised in complete coherence, formality and predictability. That might be the imaginary *telos* of bureaucratic systems but not their actuality (Rozakou 2017).

Indeed, the understanding of bureaucratic rules as static and monolithic is challenged throughout the text as my interlocutors' narratives bear testament to a dynamic engagement with systems of recognition in which the law is stretched, bent, side-stepped or even ignored. Trans legal realities in Greece appear to be composed of numerous such instances of legal improvisation, spontaneity and informality with a variety of contradicting outcomes. This, in its turn, reveals something often misunderstood in legal sciences: that, even when placed outside of conceivability frames in a legal order, the "law's outer space", as Whittle (2002) calls it, people develop practices that allow them to survive and navigate hostile administrative systems (Whittle 2002: 13).

That said, certainly this acknowledgement of trans individuals by the legislator in 2017, inaugurates, even if initially on a discursive or symbolic level, a new era for gender recognition within the national legal order. As my analysis hints though, the symbolic or declaratory function of the law is often not prioritised by trans individuals in their daily interaction with recognition systems. This level might be understood by legislators, politicians and researchers as of primary focus but remains peripheral when we move from trans politics to trans legal reality. To be clear, the passing of Law 4491/2017 was generally welcomed by my interlocutors but, at the same time, it was not necessarily assigned with the significance that politicians, activists and the media recognised in it.

In any case, gender identity recognition without medical preconditions has been a central claim for trans communities not only in Greece but internationally and, in this sense, Law 4491/2017 has been long anticipated. During the parliamentary discussions the bill was met with strong opposition. As described in chapter nine, the strictest opposition came from the side of Golden Dawn, whose parliamentarians' discourse engendered a structural ideological clash with the proposed legislation. Golden Dawn's line also drew arguments from an anti-trans

campaign of the Orthodox Church of Greece, thus, not only forming vocally a religio-political common front against the bill but also transfusing the discourse of the Church into the heart of the parliamentary debates.

The ideological backbone of the parliamentary opposition to the bill revolved around the need to defend Greek national identity and its core triptych, that is, motherland-religion-family. The political argumentation explored in chapter nine reveals the ideological notions mobilised on a socio-political level and the interconnection of gender/sexual normativity with national belonging, reproductive futurity and xenophobic (as well as Islamophobic) sentiment. The porousness of these overlapping hostile discourses on grounds of gender, sexual, religious and national belonging exemplifies the fabric of transphobia and homophobia within the Greek context. It also offers an understanding of the deeply rooted ethno-sexual imperatives that form the social and institutional context within which the power of LGBT-related legislation, as shown also in previous chapters, has proven limited.

Regardless of the opposition, the SYRIZA-ANEL governing coalition delivered Law 4491/2017 “On Gender Identity Legal Recognition” which marked undoubtedly a decisive moment in the history of the interaction of trans lives and the law in Greece. Nonetheless, since the most crucial shift (legal gender amendment without surgical preconditions) had already been achieved through judicial practice in 2016, the several downsides of this law beg the question of whether it was in favour of trans communities to introduce a specialised law only to bring about changes that could have been accomplished with a simple addition to the existing legislation.

Other than the newly added legal restrictions (age limit, marital status), one of the most controversial points to consider was the sudden hyper-visibility brought by the government’s communicational management of the issue. The introduction of Law 4491/2017 became a major publicity operation and monopolised the media for several days while its sensation lingered far longer. To one extent, and by many people, this was experienced as a kind of legitimisation in the public sphere which carried elements of empowerment (Apergi in Nini 2017). On the flipside, as some of

my interlocutors explained, it triggered a variety of hostile discourses and exposed trans individuals to increased levels of unconditional visibility and scrutiny.

This legacy, while celebrated by many, for others counterweighs part of the work performed by legislative recognition. For this reason, the communicational management of the bill's introduction and the investment of the government with regards to its publicity were largely criticised. Specifically, it was suggested the left-wing governing party used this accelerated visibility of LGBT-related rights in order to recuperate its radical left-ness that was injured in public view by the introduction of austerity measures and the "management" of migrant populations. Such capitalising on the introduction of LGBT-related legislation, by a party that had these issues on its agenda before its election, cannot be equated with the insidious work performed by the introduction of anti-racist legislation by the right-wing government in 2012. Nonetheless, it still remains in the broader frame described across the thesis concerning the utilisation of legal gender regulation and management for various stated projects.

More importantly, Part C overall, exemplified how this argument can become a starting point for an analysis that can account for the complex and often contradictory effects of legislation concerning gender identity. An analysis that is informed both by broader socio-political critiques of nationalist imperatives and, at the same time, by the material and affective components involved in the appraisal of the legislation on a molecular level. Overall, the parallel reading of these legislative pieces and of the different work they have performed within their historico-political context suggests an understanding of LGBT-related legislation beyond the schema of "victory" or "progress" - beyond also, for that matter, their complete dismissal as symptoms of homonationalism (Currah 2013).

As discussed in chapter three, similar critiques have also emerged in the U.S. context, wherein Currah (2013) suggested that the right to same-sex marriage can neither be overall dismissed nor unproblematically celebrated as a victory "in this moment of extreme income inequality, of the erosion if not gradual dismantling of the social safety net, of the 'hyper-incarceration' of the prison industrial complex,

and of record-high rates of deportation" (Currah 2013: 3). Although the U.S. and the Greece-of-Crisis bear little resemblance as contexts, they share this paradoxical collusion, which is symptomatic of a broader tendency of LGBTI+ legal victories that are achieved within a setting of increasing social inequality. Remember Papanikolaou's (2018c) note on this tendency:

> *Risky and overgeneralizing as it may be, it is also analytically productive to keep in mind a global political economy of gender and sexuality where legislation and public recognition make advances celebrated as 'progress' in many parts of the world and in the global public sphere of new media. Yet, in a parallel development, and often in the very same 'locations', homophobic, ethnophallocentric and homonationalist apparatuses work to undo, sometimes in spectacular ways, these achievements (Papanikolaou 2018c: 170).*

In this sense, there are common threads between these analyses stemming from contexts that are so far (in spatial and socio-political terms) apart. In a similar vein to Currah (2013), although writing within different fields, Papanikolaou (2018c) traces such contradictions in current Greek reality, not to underestimate the indispensability of such legislation, but to enable more complex readings that can allow us to make sense of an otherwise incomprehensible reality.

Accordingly, in this text, I have attempted to dive into this complexity and suggest alternative readings of the Greek legislator's engagement with issues of gender variance and gender identity recognition. In Part B, I have dissected early attempts of Greek jurists to systematise sex (re)classification and have correlated them with processes of state standardisation, civil registration, and citizen legibility. In Part C, I have brought to the surface the interconnection between gender identity in the law and contemporary government-level political projects. I have showed how, at different moments, legislation concerning gender identity and sexuality have enabled different narratives of the Greek state for itself. Last, I have offered an analysis of sex/gender legal management that can be perceived as part of broader socio-political commentary falling in line with Greek feminist authors' claims of a

complex enabling relationship between crisis politics and the intensification of ethno-sexual tensions (Athanasiou 2012; 2014; Vaiou 2014a, 2014b; Carastathis 2015; 2018).

Suggestions: Reserving the right to be complex

The way my analysis unfolded over the preceding chapters, outlined some of the modalities that can accommodate a critical discussion of tangible issues of gender variance and trans identities while reserving their right to complexity. In this last section, I articulate those modalities into suggestions. That is, the following suggestions are crystallised expressions of overarching motifs that organically emerged from the thesis, such as the importance of epistemological openness and context-specificity and the critique towards linear and progressivist understandings of gender and sexual practices, and politics and legislation. In this sense, althought they are articulated here as distinct, as it has become obvious throughout the thesis, they feed into each other and largely correlate.

- Firstly, the epistemological and methodological path of Part B explicitly articulates an argument in support of the use of legal research modalities that can recuperate the complexity of past modes of gender identification and their relationship with the law. What is suggested, then, is to revisit the legal past with an epistemological openness that allows the emergence of alternative gender and sexual historicities regardless of their alignment with a linear understanding of legal progress. Such a direction facilitates a context-specific understanding of nuanced negotiations concerning legal regulation and recognition before, or beyond, the frame of LGBTI+ rights.

Moreover, the call for epistemological openness also refers to the complexity and porousness among and within gender and sexual identification categories. As has been thoroughly explained throughout the thesis, the interconnection between dominant frames of classifying gender variance has resulted in multiple overlaps between hermaphroditism, transsexuality and homosexuality. Invoking such overlapping genealogies might not agree with current stricter boundaries between

these categories but still remains crucial. For example, Halberstam (1998a) has argued in the past that "future studies of transsexuality and lesbianism must attempt to account for historical moments when the difference between gender variance and sexual deviance is hard to discern" (Halberstam 1998a: 161).

Accordingly, in my research, I felt debilitated by an analysis that assumes a strict differentiation between individuals that are now identified as intersex, trans and homosexual. On the contrary, viewing taxonomic categories as communicating vessels allowed me to "solve" the mysteries of gender identity regulation in twentieth century Greece. It also brought to the epicentre of this discussion the management of individuals that now would be recognised as intersex.[213] As I exemplified in Part B, intersex, trans and homosexual (according to current nomenclature) characteristics fused under the categories of "inversion" and "hermaphroditism" in twentieth century legal theories and practice. I suggest that this complex set of discourses, which I started to trace in the present thesis, needs to be further explored, and more versions of these histories need to be compiled in order to understand the nuanced relationship of current gender/sexual identifications and the law.

➢ The second suggestion concerns the articulation of legal claims for reform, inclusion, protection and recognition. Having discussed in detail the different workings that such legislation can perform, regardless of its declared intention, it follows that it is crucial to appraise legal reforms in the specific context they are introduced in. Without such a critical and broad interrogation of introduced legislation, what might be side-stepped is its role in the orchestration of state practices, which can result - as discussed in chapter eight - in the further precarisation of marginalised populations. It is a suggestion that attunes with feminist and queer critiques from Greece, which note "that the common thread of

[213] A fact that should be taken into account in current debates that struggle to include the underrepresented "I", for intersex, when articulating legal claims. Exemplary, was the complete omission, regardless of the lobbying groups' persistence, of any intersex-related provisions in the recent legislation on the recognition of gender identity (Galanou 2018). Nonetheless, the "I" has always been there and, as shown in Part B, this played a crucial role in legal gender regulation.

precarity and vulnerability can make us not only organise resistance but also rework our theoretical, political and historiographical agendas to include the constant haunting by that Other who is denied a place, at the very moment one is finally allowed one" (Papanikolaou 2018c: 173).

Keeping such a critique at the core of legal analysis on gender and sexual regulation is not just dictated by this exclusion (of the one who did not make it to the "inside"), which lies within every inclusion. It is, furthermore, rendered necessary due to the multiple axes along which, as I have showed in my analysis, gender and sexuality are debated on the national political agenda. The current context of increased racism, austerity and gender violence demands careful articulations that are informed by critiques against nationalist, xenophobic and other similar, ideological elements which are utilised in the discursive construction of certain populations as dangerous, infectious and superfluous. Such a critique, as Jasbir Puar notes, "may not mean abandoning rights based legal interventions" but it does "highlight the need to attend to the unprogressive consequences of progressive legislation" (Puar 2013: 24). In this vein, legal and political analyses, which are trained to recognise the concealed, or less concealed, state projects served by introduced legislation and are more keen to problematise the connections between state imperatives, hostile ideological apparatuses and specific legal reforms.

- Furthermore, following the discussions with my interlocutors, another suggestion that emerged relates once more to the critique towards perceiving LGBTI+ legislation as a linear tale of success and progress. Undoubtedly, following blindly the path of, what are considered internationally, milestones in LGBTI+ rights offers the advantage of having a significant pressure leverage. Indeed, as shown in chapter seven, the adaptation of European anti-discrimination directives at a moment in which such claims did not have momentum in the national order was accomplished due to institutional European leverage. Nonetheless, it was also established that this legislation remained unnoticed and did not, in any way, produce results in relation to trans employability issues. In this sense, I argue that legal and political claims in different contexts might limit themselves in their

attempt to replicate past successes from other environments.

The success of international LGBTI+ claims in the legal arena privileges the tendency to ignore different paths that may not have led to successful, in the same terms, outcomes. Nonetheless, as feminist historian Eleni Varikas suggests, looking at the past "blurred by *what we already know*, the lens of 'success', which is the same time the lens of the obvious, conceals from our vision any trace in which the unexpected breaks open our understanding of historical possibility" (Varikas 2002: 102, *emphasis in the original*).[214] Accordingly, utilising such a perspective in the reading of past politico-legal articulations reveals the rigidness of LGBTI+ progressivist timelines, which assume a universal linear unfolding of LGBTI+ claims in the social and legal arena. In this vein, what is suggested is to allow legal claims and struggles to unfold even if they are not necessarily surrounded with the prestigious aura of internationally successful milestones.

- Finally, a suggestion for legal research and theorising is to retain a stance of epistemological humility and openness towards trans expertise and experience. Indeed, trans activists that lobby for legal reform have played a significant role in the debate concerning gender identity legal recognition and have introduced many critical elements in the dominant debate. Nonetheless, a significant part of trans expertise about the practical navigation of legal and other bureaucratic systems lays with trans individuals, regardless of their involvement in activism and lobbying. Choosing to conduct interviews, as well, with individuals that were not necessarily experts in this sense allowed for more aspects of trans reality to emerge, such as the aporetic and ambivalent engagement with main pieces of trans legislation and the low investment in high-level declaratory legislation.

Additionally, through epistemological openness and reflexivity, legal research can move beyond the standard format of extracting empirical data to confirm already existing theoretical schemata and pre-determined legal suggestions. Indeed, as

[214] Varikas' text refers to the movements of 1968 attempting a critical historical appraisal of their "utopian surplus" (Varikas 2002).

feminist epistemologies, but also my interlocutors themselves, have taught me, such an approach allows nuanced conceptualisations, informal practices and conflicting affective components to emerge. Thanks to these discussions, I have been able to frame some of the dissonances between the legal imaginary and the lived reality in a way that moves beyond an argument of proper application of the law. Trusting the subtle (re)positionings of my conversation partners during our exchanges, instead of insisting on my own conceptualisations of the issues under discussion and their legal imaginary solutions, I was led by their analyses into the complex intersections of gender identification, ethno-sexual belonging, atmospheric violence/hostility, austerity, and the law. Moreover, I was able to appreciate the significance of improvised survival strategies and individual agency. Centralising these aspects is not intended as an optimistic remedy in the face of marginalisation and exclusion but, as noted in chapter nine, as "a realist call to honour the zones of alternative trans being emerging under the duress of impossibility and to remain open to not knowing what they look like in advance" (Aizura 2014: 143).

Implying the depth of my gratitude towards my interlocutors, I will close with the suggestion that such openness to trans experience as part of the research epistemology is necessary in order to generate valuable and meaningful knowledge. Knowledge that does not necessarily fit neatly in the theoretical and practical schemata the researcher sets out with but has a unique potential in making sense of the conflicting elements of legal realities within the challenging environment of the Greece-of-Crisis. It was through this prism that I was able to understand and conceptualise the contradicting effects of the presented legislation, as well as my own discomfort to either unquestioningly embrace or entirely reject the significance of such a legislative framework and, in doing so, to return, time and again, to the law as an opportunity for critique, rather than just disappointment.

Appendix A – Terminology

This appendix briefly explains some of the terms used throughout the thesis and the way they are to be perceived in a specific context. It is a common denominator in studies on gender variance to engage with detailed and nuanced definitions, especially of the sexual and gender identities used to refer to individuals (Cromwell 1999; Whittle 2002; Aizura 2006; Valentine 2007). Such terminology is simultaneously transnational[215] and context-specific (Noble 2011: 267). For this reason, the issue of translation often enters the conversation precisely because identification terms (whether dominant or community-based) travel across borders and are grafted with local elements (Ochoa 2008; Mizielińska 2011; Bilić & Dioli 2016).

In the present thesis, since language is stretched across geo-political, linguistic and historical borders, I opt for a flexible and forgiving utilisation of the available English terms, even if they do not always capture the exact cultural meanings involved. This also requires a flexible and forgiving stance on the part of the reader, who should perceive the terms as approximate and also as terms that need to be "got across" culturally and historically-specific meanings that might not always be clear-cut. Especially in Part B, where dominant legal frames of the previous century are discussed, the mobilisation of terms that might not resonate with contemporary community-based terminology is necessary in order to trace and analyse the historicity of gender variance in the Greek legal order.

a. Sex – Gender

Starting from the obvious, the issue to be clarified is the way "sex" and "gender" are used in the text. In Greek, the main word used to describe the concepts we

[215] Indeed, as in other non-Anglophone contexts many relevant terms are used untranslated. Other than the main term "trans", which will be further discussed other terms that where used untranslated by my interlocutors during the interviews were: "ftm" (female-to-male), "mtf" (male-to-female), "non-binary", "transition", "top surgery", "bottom dysphoria", "post-op" and "pre-op".

have related with both sex and gender is “fylo” (φύλο). “Fylo” nonetheless does not mean specifically either sex or gender. Moreover, in Greek, the English word “sex” (*σεξ*) is used to refer to sexual acts, “not properties or identities assigned to bodies or claimed by embodied subjects” Carastathis 2018b: 293, footnote 36). The Greek word “genos” (γένος), which etymologically is the closest translation of the word “gender”, has a variety of crystallised meanings such as grammatical gender, the lineage of a spouse before marriage, the biological genus or even a nation, thus proving inappropriate to assume the meaning of the English “gender” (Pavlidou 2006).

Therefore, in Greek, the sex-gender distinction has been made by the use of the adjectives “biological” and “social” before the broader term “fylo” (Pavlidou 2006; Carastathis 2018b). This means that, unless the speaker is consciously making this distinction, which is the case only in specialised discourses, the word “fylo” is used indiscriminately, thus, begging the question of how one choses to translate this in English, especially in such a study where the choice of such words is crucial. In a nutshell, the problem is that, although the distinction between sex and gender can translate into Greek, the concept of “fylo”, which is broader, does not translate into English. In the following paragraph, I explain how I chose to translate it in different instances but, overall, as it is clear this can only be a translation by approximation and never exact.

In the parts that discuss the legal management of gender variance in the previous century, I use almost exclusively the term “sex” (with a few exceptions), whether referring to legal classifications, sexological diagnoses or other uses of the text. The rationale behind this is primarily that the texts of this period precede the theoretical sex-gender distinction. Moreover, the use of “sex” underscores the emphasis that was placed in this era on the anatomy of the body within these debates in legal and medico-legal sciences. Accordingly, for contemporary debates, I predominantly use the term “gender” as it is the common practice unless the text I translate uses the term “fylo” in a way that, although not explicitly declared, is conceptually closer to “sex”. Overall, because the translation of “fylo” is not

perfect, the reader is encouraged to understand the interchange between the use of “sex” and “gender” as one that is guided by the needs of the text and, thus, requires a flexible and forgiving reading.

b. Gender Identification terms

The terms regarding gender identification are always a terrain of discursive negotiation; one that requires footnotes, asterisks, appendices, and so on, as the terminology of gender identification is a language under construction often constituted by identities under erasure (Cromwell 1999; Aizura 2006; Noble 2011; Bhanji 2012). The categories of gender identification might have connotations of dominant pathologising frames or traces of resistance to these frames or tints of both. The crucial point is to employ the categories that are meaningful in different contexts (Namaste [2005] 2011).

The first term that requires further explanation is “hermaphroditism”, which, although very problematic, is used in the text due to its historicity, but this is thoroughly explained. The Greek etymological origin of the word has made it easily transferrable to and from Greek texts without great differences in content. Most importantly, the term “hermaphrodite” is used in this text as connotative of a specific historical category formed within the medico-legal dominant discourse. It is important to note here that this is not currently a preferred term for various communities of individuals that would have fallen historically within its purview. The term *intersex* is currently used as a more acceptable category, which includes a variety of gender embodiments beyond the sexual dimorphism paradigm (Sharpe 2010: 4; Fausto-Sterling 1993; Dreger 1998: 170; Kessler 1998; Preves 2003; Creighton *et al* 2009; Greenberg 2012).

Nonetheless, I retain the term in the text because as it is established in the thesis that, during the twentieth century, it included various embodiments and expressions. Following Alice Domurat Dreger:

> *(…) I use the general term “hermaphrodite” for all so-identified subjects of anatomically double, doubtful, and/or mistaken sex (that is, supposedly*

> *mislabelled sex). But I do this not because I think the category of "hermaphrodite" is self-evident or because I think it forms a clearly bounded, ontological category that cannot be disputed. (…) it was in fact the blanket term commonly used before and during the period of my study for persons suspected of being subjects of double, doubtful, or mistaken sex. The label "hermaphrodite" was sometimes also given to people we would now call homosexuals, transvestites, feminists, and so on, but it was, by the nineteenth century, most commonly reserved for the anatomically "ambiguous" bodies on which I focus (Dreger 1998: 30).*

Accordingly, the words "transsexual" (τρανσέξουαλ) and "travesti" (τραβεστί), which Carastathis (2018) describes as a falsification of the French word for "transvestite," are used in the text along the constantly shifting border between dominant categorisation and re-appropriating community practices (Carastathis 2018: 293). As Papanikolaou (2018a) accurately notes "the term *travesti* has a particular historicity in Greece, since this was the term that was used in the '70s and '80s and has been associated with that era's culture, with its traumas" (Papanikolaou 2018a: 337, footnote 1, my translation).

These terms, as well as the term "homosexual" (ομοφυλόφιλος), were used not only to refer to trans women[216] but also by trans women to self-identify and were (and still are) largely associated socially with sex-work. Although, none of these terms are currently accepted as respectful within many contemporary trans communities, they have been used historically as self-identification terms around which communities of politicisation and co-existence were organised.[217] For reasons of historical accuracy, but also out of respect for every self-referential term that has been chosen by gender variant individuals throughout different periods, the terms "transsexual" and "travesti" are occasionally used in the analysis of texts from past decades.

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[216] None of these terms have been significantly associated with trans masculinities.

[217] Many (usually older) trans women still informally use such terms because they are profoundly meaningful in their socialisation.

Many similar terms have historically been absorbed into Anglophone literature and politics by the term "transgender", which has been used broadly as an umbrella term to describe a variety of gender identifications (Whittle 2002). Although I discuss the concept of "transgender" in Part A in which mainly Anglophone theoretical debates are explored, I hardly use it as a term in my analysis. This is because, in the Greek context, the term never became significant in its full English form, while its translation in Greek (*διεμφυλικός/ή*) is used only in formal contexts such as academic texts, legal texts and other formal discourses (Galanou 2014).

Instead, the text uses widely the term "trans", which is used untranslated in Greek (*τρανς*) and carries a more contemporary timbre without sounding alienating. In using this term, I follow my own empirical understanding of the practices in Greece as well as the guidebook by the "Greek Transgender Support Association," which, regardless of using "transgender" in its title, notes on terminology:

> *Nonetheless, because as a neologism the term transgender is cumbersome, what is preferred is the shorter, easier to use and international term* ***trans*** *[τρανς], which is accepted and embraces the entire community of people whose gender identity or expression differentiates from their anatomical sex. Accordingly, in the rest of this guidebook we will use the term trans*[218] */ individuals / people / women / men as more simple, understandable and internationally accepted. This is the preferred terminology that covers our community (Galanou 2014: 26-27, my translation, emphasis in the original).*

The use of the term "trans" here as a term that describes diverse gender variant identification practices follows trans writers, which have used it as "an identity category under erasure" while insisting on its cultural specificity (Aizura 2006; Ochoa 2011; Noble 2011; Bhanji 2012). Departing from this last point, the terms "gender variance/gender variant individual" are used widely in the text in order to

[218] I use the term mas an adjective, as it is indicated here, but in practice many trans women (not men) use the term as a noun.

provide an openness required by historical and other reasons. That is, by using the broad term “gender variance”, I include identification and practices that historically might precede the emergence of the term “trans” and, thus, might be flattened by it (such as the above-described terms) and keep the text open for individuals that, although recognised as trans, might not necessarily conceptualise their experience in the terms of LGBTI+ and queer communities.

Departing from the last point, it is my understanding that no matter how careful and open an assigned terminology attempts to be, there is a certain amount of epistemic imposition that cannot be wished away. With that in mind, I insist once more on a flexible understanding of how the terms are used and interchanged in the text.

Appendix B – Interviewees

Before every interview, I explained the premises of the research to all interviewees who were also given a consent form to sign. The gender-variant individuals are referred to with pseudonyms that they chose for themselves and their information is described vaguely in order to protect their anonymity.

Interlocutors' information:

- Hector: I interviewed Hector in 2014 and 2017, both times in different cafes in Exarcheia. He was in his mid-thirties at the time of the second interview. Hector has undertaken higher education and was working as self-employed both times we met. He was raised in a rural village in Southern Greece and is living with his long-term female partner. He identified as a trans man and has been involved in trans and queer politics. He used medical technologies for transitioning but was not planning to amend his documents in order to maintain a state allowance or otherwise he would struggle financially.
- Lola: I interviewed Lola both in 2014 and 2017. The first interview took place in a café in Exarcheia and the second at her apartment and interviews were several hours long. Although she was not very interested in the measures of anonymity, she strictly forbid me to discuss her age in the text. Lola has undertaken higher education and has been involved in trans and queer politics and activism. She was raised by her mother in a low-income household in Athens and had to work from an early age in various positions. She identified as a straight trans woman and, although she had not amended her documents, she was using medical technologies for transitioning.
- Mike: I interviewed Mike in 2014 and 2017. Our first interview took place at the apartment he shares with his long-term female partner (now spouse) Eleni, who also participated in the hours-long interview. The second interview took place at a café in a residential area of Athens. He was 37 years old at the time of the

second interview. Mike was raised in a rural area of Southern Greece and worked in the family business from an early age. He undertook higher education and was self-employed at the time of our interviews. He was using medical technologies for transitioning and, by the time of the second interview, he had amended his documents. He had no connection with trans politics and never used such terms to speak of himself and specifically he said: “I am not somehow different. I am just a person that is dealing with a medical problem.”

- Nataly: I interviewed Nataly in 2017 at the apartment she shared with her mother above a small shop that the two of them were trying to keep afloat. She was 21 years old at the time and, although she is of mixed-race origin, she has been raised in Greece by her mother who is Greek and has serious health problems. At the time of our interview, Nataly had already obtained some vocational training but was working at the family shop. She identified as a trans woman/girl and uses medical technologies for transitioning. She had not amended her documents at the time but she had initiated the process, which has now been completed. Although not involved at the time in trans activism, she has socialised with and received support through some of its unofficial networks, which she recognised as the place where she was “educated about these things.”

- Philip: I interviewed Philip in 2014 and 2017, both times in cafes in Thessaloniki where he lives. He was 27 years old at the time of the second interview. Phillip has undertaken higher education and was raised in a financially comfortable household, which he recognised as a significant factor in his experience of living as trans in Greece. He was living with his family and, although not involved in trans activism at the time, he has socialised with and received support through some of its unofficial networks. By the time of our first interview (when he was 24 years old and a student) he had already amended his documents and was using medical technologies for transitioning.

- Sandra: I interviewed Sandra at a café in Victoria in 2017. She was 22 years old at the time and living with her parents, who support her. She was raised in a

working-class migrant (although white) family in Athens. She had obtained some vocational training and was in the process of completing some additional training in order to find a job. She used the term trans girls/women to refer to herself and others but generally prefers a stealth life and would more often omit the term "trans." She had not amended her documents but was using medical technologies for transitioning. Although not involved at the time in trans activism, she has socialised with and received support through some of its unofficial networks.

- Valeria: I interviewed Valeria in 2017 at the apartment she shared with her brother in Athens. She was in her late twenties at the time. She was not born in Greece but migrated at a very young age and was raised by her mother in a small Greek town within a low-income household. She did not finish high school but has obtained vocational training and was working on and off at the time. Valeria identified as a trans woman, often using the term "trans" as a noun referring to trans women. She had not amended her documents but was using medical technologies for transitioning. Although not involved at the time in trans activism she has socialised with and received support through some of its unofficial networks.

Legal Professionals:

- Legal Professional 1: I interviewed L.P.1 in 2017 at her apartment in Thessaloniki. I chose her for her experience with human rights cases and her collaboration with trans and other political and lobbying groups. We were able to discuss all the trans-related legislation and the lack of it for migrant individuals. She had represented trans (Greek and migrant) clients by the time of our interview and was aware of the emerging legal debate in Greece.

- Legal Professional 2: I interviewed L.P.2 in her apartment in Thessaloniki. I chose her for her experience in migrant-related positions during the 'refugee crisis' of 2015 and her empirical knowledge of the issues faced by trans LGBT

individuals. Due to the final decision not to include these issues in the thesis, this interview is not drawn upon significantly in the text.

- Legal Professional 3: I interviewed L.P.3 in her apartment in Athens. I chose her for her experience in migrant-related positions before and during the 'refugee crisis' of 2015 and her detailed understanding of how asylum services and other relevant infrastructure functions. Due to the final decision not to include these issues in the thesis, this interview is also not significantly used in the text.

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